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STATUTES

OF THE

MISSISSIPPI TERRITORY;

THE

CONSTITUTION OF THE UNITED STATES, WITH THE
SEVERAL AMENDMENTS THERETO;

THE ORDINANCE

FOR THE GOVERNMENT OF THE TERRITORY OF THE
UNITED STATES, NORTH-WEST OF THE
RIVER OHIO;

THE

*ARTICLES OF AGREEMENT AND CESSION, BETWEEN THE
UNITED STATES AND THE STATE OF GEORGIA;*

AND

SUCH ACTS OF CONGRESS

AS RELATE TO THE

MISSISSIPPI TERRITORY.

DIGESTED BY THE AUTHORITY OF THE GENERAL ASSEMBLY.

By Edward Turner, Esq.

NATCHEZ:

PRINTED BY PETER ISLER, PRINTER TO THE TERRITORY.

1816.

DECLARATION OF INDEPENDENCE.

IN CONGRESS, JULY 4, 1776.

By the Representatives of the United States of America in Congress assembled.

A DECLARATION;

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect for the opinions of mankind, requires, that they should declare the causes which impel them to the separation.

We hold these truths to be self evident—that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of

Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation, till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the Legislature—a right inestimable to them, and formidable to tyrants only

He has called together legislative bodies, at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the state remaining in the mean time, exposed to all the danger of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners: refusing to pass others, to encourage their migration hither, and raising the conditions of new appropriation of lands.

He has obstructed the administration of justice, by refusing his assent to laws, for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harrass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our Legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others, to subject us to a jurisdiction, foreign to our Constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:—

For quartering large bodies of armed troops among us:—

For protecting them by a mock trial, from punishment for any murder which they should commit on the inhabitants of these states:—

For cutting off our trade with all parts of the world:—

For imposing taxes on us without our consent:—

For depriving us, in many cases, of the benefits of trial by jury:—

For transporting us beyond seas, to be tried for pretended offences:—

For abolishing the free system of English law in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument, for introducing the same absolute rule into these colonies:—

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:—

For suspending our own Legislatures, and declaring themselves invested with power, to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress, in the most humble terms: our petitions have been answered only by repeated injury. A prince whose character is thus marked, by every act, which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts made by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must therefore acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind—enemies in war;—in peace, friends.

We, therefore, the Representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, Do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection, between them and the state of Great Britain, is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

Signed by order and in behalf of the Congress,
JOHN HANCOCK, *President.*

Attested.
Charles Thompson, *Secretary.*

New-Hampshire.
Josiah Bartlett,
William Whipple,
Matthew Thornton.
Massachusetts-Bay.
Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.
Rhode-Island, &c.
Stephen Hopkins,
William Ellery.
Connecticut.
Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.
New-York.
William Floyd
Philip Livingston,
Francis Lewis,
Lewis Morris.
New-Jersey.
Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark.
Pennsylvania.
Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton,
George Clymer,
James Wilson,
George Ross.
Delaware.
Cæsar Rodney,
Thomas M'Kean,
George Read.
Maryland.
Samuel Chase,
William Paca,
Thomas Stone,
Charles Carroll, of Carrolton.
Virginia.
George Wythe,
Richard Henry Lee,
Thomas Jefferson,
Benjamin Harrison,
Thomas Nelson, jun.
Francis Lightfoot Lee,
Carter Braxton.
North-Carolina.
William Hooper,
Joseph Hewes,
John Penn.
South-Carolina.
Edward Rutledge,
Thomas Heyward, jun.
Thomas Lynch, jun.
Arthur Middleton.
Georgia.
Button Gwinnett,
Lyman Hall,
George Walton.

IN CONGRESS, JULY 9, 1778.

ARTICLES

OF

CONFEDERATION AND PERPETUAL UNION,

BETWEEN

The States of *New-Hampshire*, *Massachusetts-Bay*, *Rhode-Island and Providence Plantations*, *Connecticut*, *New-York*, *New-Jersey*, *Pennsylvania*, *Delaware*, *Maryland*, *Virginia*, *North-Carolina*, *South-Carolina*, *and Georgia.*

Article I. THE stile of this confederacy shall be, "*United States of America.*"

Art. II. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled.

Art. III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Art. IV. § 1. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state of which the owner is an inhabitant; provided also that no imposition, duties, or restriction, shall be laid by any state on the property of the United States, or either of them.

§ 2. If any person guilty of or charged with treason, felony, or other high misdemeanor in any state, shall flee from justice, and be found in any of the United States, he shall, upon the demand of the governor, or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

§ 3. Full faith and credit shall be given in each of these states, to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

Art. V § 1. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November of every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year and to send others in their stead, for the remainder of the year.

§ 2. No state shall be represented in Congress by less than two, nor more than seven members; and no person shall be capable of being a delegate for more than three years, in any term of six years; nor shall any person, being a delegate be capable of holding any office under the United States, for which he, or any other for his benefit, receives any salary, fees, or emolument, of any kind.

§ 3. Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

§ 4. In determining questions in the United States in Congress assembled, each state shall have one vote.

§ 5. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on Congress except for treason, felony, or breach of the peace.

Art. VI. § 1. No state, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

§ 2. No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United

States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

§ 3. No state shall lay any imposts or duties which may interfere with any stipulations in treaties, entered into by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

§ 4. No vessels of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in Congress assembled for the defence of such state, or its trade : nor shall any body of forces be kept up by any state, in time of peace, except such number only as in the judgment of the United States in Congress assembled shall be deemed requisite to garrison the forts necessary for the defence of such state ; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

§ 5. No state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of delay till the United States in Congress assembled can be consulted : nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state and the subjects thereof against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

Art. VII. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

Art. VIII. All charges of war, and all other expences that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the United States in Congress assembled.

Art. IX. § 1. The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures: provided that no member of Congress shall be appointed a judge of the said courts.

§ 2. The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority or lawful agent of any state in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall in the presence of Congress be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as that a major part of the judges, who shall hear the cause, shall agree in the determination: and if either party shall neglect to attend at the day appointed, without shewing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each state, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appeal or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged amongst the acts of Congress, for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, "well and truly to hear rnd determine the matter in question, according to the best of his judgment, without favour, affection, or hope of reward:" provided also, that no state shall be deprived of territory for the benefit of the United States.

§ 3. All controversies concerning the private right of soil claimed ed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

§ 4. The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin, struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States; regulatiug the trade and managing all affairs with the Indians, not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated; establishing and regulating post offices from one state to another, throughout all the United States, and exacting such postage on the papers passing through the same, as may be requisite to defray the expences of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

§ 5. The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated, *A Committee of the States*, and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction ; to appoint one of their number to preside ; provided that no person be allowed to serve in the office of president more than one year in any term of three years ; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expences ; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted ; to build and equip a navy ; to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state, which requisition shall be binding; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expence of the United States ; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled : but if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared ; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

§ 6. The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expences necessary for the defence and welfare of the Uuited States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same : Nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

§ 7. The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy ; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

Art. X. The committee of the states, or any nine of them, shall be authorised to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states, in the congress of the United States assembled, is requisite.

Art. XI. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this union: But no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

Art. XII. All bills of credit emitted, money borrowed, and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

Art. XIII. Every state shall abide by the determinations of the United States in Congress assembled, in all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every state.

And Whereas it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorise us to ratify the said articles of confederation and perpetual union: Know ye, that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, in all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress.

DONE at Philadelphia, *in the state of* Pennsylvania, *the 9th day of July, in the year of our Lord,* 1778, *and in the third year of the Independence of America.*

New-Hampshire.
Josiah Bartlett,
John Wentworth, jun.
Massachusetts-Bay.
John Hancock,
Samuel Adams,
Elbridge Gerry,
Francis Dana,
James Lovell,
Samuel Holten.
Rhode-Island, &c.
William Ellery,
Henry Merchant,
John Collins.
Connecticut.
Roger Sherman,
Samuel Huntington,
Oliver Wolcott,
Titus Hosmer,
Andrew Adams,
New-York.
James Duane,
Francis Lewis,
William Duer,
Governeur Morris.
New-Jersey.
John Witherspoon,
Nathaniel Scudder.
Pennsylvania.
Robert Morris,
Daniel Roberdeau,
Jonathan Bayard Smith,
William Clingan,
Joseph Reed.
Delaware.
Thomas M'Kean,
John Dickinson,
Nicholas Vandyke.
Maryland.
John Hanson,
Daniel Carrol.
Virginia.
Richard Henry Lee,
John Banister,
Thomas Adams,
John Harvey,
Francis Lightfoot Lee,.
North-Carolina.
John Penn,
Cornelius Harnett,
John Williams.
South-Carolina.
Henry Laurens,
William Henry Drayton,
John Matthews,
Richard Hutson,
Thomas Heyward, jun.
Georgia.
John Walton,
Edward Taliafero,
Edward Longworthy.

The aforesaid Articles of Confederation were finally ratified on the first day of March, 1781; the state of Maryland having, by their members in Congress, on that day acceded thereto, and completed the same.

CONSTITUTION

OF THE

UNITED STATES.

The CONSTITUTION framed for the United States of America, by a Convention of Deputies from the states of New-Hampshire, Massachusetts, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, at a Session begun May 25, and ended September 17, 1787.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

• • • • • • • •

ARTICLE I.

SECTION I.

All legislative powers herein granted, shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives.

SECTION II.

I. The House of Representatives shall consist of Members chosen every second year, by the people of the several states: and the electors in each state, shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

II. No person shall be a Representative, who shall not have attained to the age of twenty-five years; and been seven years a citizen of the United States; and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

III. Representatives and direct taxes, shall be apportioned among the several states, which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States; and within every subsequent term of years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand: but each state shall have at least one Representative: and, until such enumeration shall be made, the state of New-Hampshire shall be entitled to choose three; Massachusetts eight; Rhode-Island and Providence Plantations one; Connecticut five; New-York six; New-Jersey four; Pennsylvania eight; Delaware one; Maryland six; Virginia ten; North-Carolina five; South-Carolina five; and Georgia three.

IV. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

V. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

SECTION III.

I. The Senate of the United States shall be composed of two Senators from each state, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

II. Immediately after they shall be assembled, in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year: so that one third may be chosen every second year. And if vacancies happen, by resignation or otherwise, during the recess of the legislature of any state the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

III. No person shall be a Senator, who shall not have attained to the age of thirty years, and been nine years a citizen of the United States; and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

IV. The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

V. The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

VI. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation.

When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted, without the concurrence of two thirds of the members present.

VII. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust, or profit, under the United States. But the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SECTION IV.

I. The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the Legislature thereof: but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

II. The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION V.

I. Each House shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

II. Each House may determine the rules of its proceedings; punish its members for disorderly behaviour; and with the concurrence of two-thirds, expel a member.

III. Each House shall keep a journal of its proceedings: and, from time to time, publish the same, excepting such parts as may in their judgment require secrecy: and the yeas and nays, or the members of either House on any question, shall, at the desire of one fifth of those present, be entered on the journal.

IV. Neither House during the session of Congress, shall, without the consent of the other adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION VI.

I. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, during their attendance at the session of their respective Houses and in going to, and returning from the same; for any speech or debate in either House, they shall not be questioned in any other place.

II. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office, under the authority of the United States, which shall have been created, or the emoluments of which shall have been increased, during such time ; and no person, holding any office under the United States shall be a member of either House, during his continuance in office.

SECTION VII.

I. All bills, for raising revenue, shall originate in the House of Representatives : but the Senate shall propose or concur with amendments, as on other bills.

II. Every bill, which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States. If he approve, he shall sign it : but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent together with the objections, to the other House, by which it shall likewise be reconsidered : and, if approved by two-thirds of that House, it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays : and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President, within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return ; in which case it shall not be a law.

III. Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States ; and, before the same shall take effect, be approved by him ; or, being disapproved by him, shall be repassed by two-thirds of both Houses, according to the rules and limitations prescribed in the case of a bill.

SECTION VIII.

The Congress shall have power—

I. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence, and general welfare of the United States : but all duties, imposts, and excises, shall be uniform throughout the United States.

II. To borrow money on the credit of the United States.

III. To regulate commerce with foreign nations, and among the several states, and within the Indian tribes.

IV. To establish an uniform rule of naturalization ; and uniform laws on the subject of bankruptcies, throughout the United States.

V. To coin money; to regulate the value thereof, and of foreign coin; and fix the standard of weights and measures.

VI. To provide for the punishment of counterfeiting the securities and current coin of the United States.

VII. To establish post offices and post roads.

VIII. To promote the progress of Science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

IX. To constitute tribunals inferior to the Supreme Court.

X. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

XI. To declare war; grant letters of marque and reprisal; and make rules concerning captures on land and water.

XII. To raise and support armies. But no appropriation of money for that use, shall be for a longer term than two years.

XIII. To provide and maintain a navy.

XIV. To make rules for the government and regulation of the land and naval forces.

XV. To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions.

XVI. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

XVII. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings; and

XVIII. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or any department or officer thereof.

SECTION IX.

I. The migration or importation of such persons, as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress, prior to the year one thousand eight hundred and eight; but a tax may be imposed on such importation, not exceeding ten dollars for each person.

II. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

III. No bill of attainder or ex post facto law shall be passed.

IV. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

V. No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state, over those of another: nor shall vessels, bound to or from one state, be obliged to enter, clear, or pay duties in another.

VI No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public monies shall be published from time to time.

VII. No title of nobility shall be granted by the United States: and no person, holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SECTION X.

I. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

II. No state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of Congress. No state shall without the consent of Congress; lay any duty on tonnage, keep troops, or ships of war, in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION I.

I. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

II. Each state shall appoint, in such manner as the legislature thereof may direct, a number of *electors, equal to the whole number of senators and representatives, to which the state may be entitled in the Congress. But no senator or representative, or person holding any office of trust or profit, under the United States, shall be appointed an elector.

III. The electors shall meet in their respective states, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President: and if no person have a majority, then, from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states: and a majority of all the states shall be necessary to a choice. In every case after the choice of the President, the person having the greatest number of votes of the electors, shall be the Vice-President. But if there should remain two or more, who have equal votes, the Senate shall choose from them, by bollot, the Vice-President.

IV. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

V. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president. Neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

VI. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President: and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

VII. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished, during the period for which he shall have been elected: and he shall not receive, within that period, any other emolument from the United States, or any of them.

VIII. Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the "office of President of the United States; and will, to the best of my

" ability, preserve, protect, and defend the constitution of the United
" States."

SECTION II.

I. The President shall be commander in chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States. He may require the opinion, in writing, of the principal officers in each of the executive departments, upon any subject relating to the duties of their respective offices: and he shall have power to grant reprieves and pardons, for offences against the United States, except in cases of impeachment.

II. He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur: and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

III. The President shall have power to fill up all vacancies that may happen, during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECTION III.

He shall, from time to time give to the Congress information of the state of the union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both Houses or either of them; and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECTION IV.

The President, Vice-President, and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION I.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts, as the Congress may, from time to time, ordain and establish. The Judges, both of the supreme and inferior courts, shall hold their offices during good behaviour; and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SECTION II.

I. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party, to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

II. In all cases, affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

III. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places, as the Congress may by law have directed.

SECTION III.

I. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

II. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION I.

Full faith and credit shall be given, in each state, to the public acts, records, and judicial proceedings of every other state. And the Congress may, by penal laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION II.

I. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

II. A person charged in any state with treason, felony or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state, having jurisdiction of the crime.

III. No person, held to service or labour in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour; but shall be delivered upon claim of the party to whom such service or labour may be due.

SECTION III.

I. New states may be admitted by the Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state—nor any state be formed by the junction of two or more states—without the consent of the Legislatures of the states concerned as well as of the Congress.

II. The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this constitution shall be so construed, as to prejudice any claims of the United States, or of any particular state.

SECTION IV.

The United States shall guarantee to every state in this union, a republican form of government; and shall protect each of them against invasion, and on application of the Legislature, or of the executive (when the Legislature cannot be convened) against domestic violence.

ARTICLE V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the Legislatures of two-thirds of the several states, shall call a convention for proposing amendments; which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the Legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided, that no amendment, which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

I. All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

II. This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and ~~the~~ judges, in every state, shall be bound thereby, any thing in the constitutions or laws of any state to the contrary notwithstanding.

III. The Senators and Representatives before mentioned, and the members of the several state Legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution ; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the convention of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in the convention by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America, the twelfth. In witness whereof we have subscribed our names.

GEORGE WASHINGTON, President,
and Delegate from Virginia.

New-Hampshire.
John Langdon,
Nicholas Gilman.
Massachusetts.
Nathaniel Gorham,
Rufus King.
Connecticut.
William Samuel Johnson,
Roger Sherman.
New-York.
Alexander Hamilton.
New-Jersey.
William Livingston,
David Brearley,
William Patterson,
Jonathan Dayton,

Pennsylvania.
Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Governeur Morris.

Delaware.
George Reed,
Gunning Bedford, jun.
John Dickinson,
Richard Basset,
Jacob Broom.

Maryland.
James M'Henry,
Dan'l of St. Thomas Jenifer,
Daniel Carroll.

Virginia.
John Blair,
James Madison, jun.

North-Carolina.
William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

South-Carolina.
John Rutledge,
Charles C. Pinckney,
Charles Pinckney,
Pierce Butler.

Georgia.
William Few,
Abraham Baldwin.

Attest, WILLIAM JACKSON, *Secretary.*

AMENDMENTS.

The following ARTICLES in addition to, and amendment of, the Constitution of the United States, having been ratified by the Legislatures of nine states, are equally obligatory with the Constitution itself.

I. CONGRESS shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

III. No soldier shall in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

V. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia, when in actual service, in time of war, or public danger: nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case, to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation,

VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury, of the state and district, wherein the crime shall have been committed; which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour; and to have the assistance of counsel for his defence.

VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved;

and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

VIII. Excessive bail shall not be required ; nor excessive fines imposed ; nor cruel and unusual punishments inflicted.

IX. The enumeration, in the constitution of certain rights, shall not be construed to deny or disparage others, retained by the people.

X. The powers, not delegated to the United States, by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

XII. The electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least shall not be an inhabitant of the same state with themselves ; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President ; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the Senate ; the president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted : the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed ; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote ; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be Vice-President, if such number be a majority of the whole number of electors appointed ; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President ; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

AN ORDINANCE

FOR THE

GOVERNMENT OF THE TERRITORY OF THE UNITED STATES NORTH-WEST OF THE RIVER OHIO.

BE it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory dying intestate, shall descend to, and be distributed among their children, and the decendants of a deceased child in equal parts; the decendants of a deceased child or grand-child, to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them their deceased parent's share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in in whom the estate may be (being of full age) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however to the French and Canadian inhabitants, and other settlers, of the Kaskaskies, Saint Vincent's, and the neighbouring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress: he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time by Congress a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months to the secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.*

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district and report them to Congress from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress: but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same, below the rank of general officers: all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly: but all magistrates and other civil officers not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof, and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the

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* By an act passed May the 8th, 1792, it is provided that, "the official duties of the Secretary of the said territory, shall be under the controul of such laws as may be in force in the same, and that any one of the supreme or superior judges of the said territory, in the absence of the other judges, shall be and are hereby authorised to hold a court."

Indian titles shall have been extinguished, into counties and townships, subject however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; provided that for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: Provided that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: Provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold, and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members to continue in office five years, unless sooner removed by Congress: any three of whom to be a quorum: And the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council by death or removal from office, the house of representatives, shall nominate two persons, qualified as aforesaid for each vacancy, and return their names to Congress; one of whom, Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory; to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils, on an equal footing with the original states, at as early periods, as may be consistent with the general interest;

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE I.

No person demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

ARTICLE II.

The inhabitants of the said territory, shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide, and without fraud previously formed.

ARTICLE III.

Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools, and the means of education, shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity, shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein, as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers, in the said terrritory, shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expences of government, to be apportioned on them by Congress, according to the same common rule and measure, by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states, as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts or new states, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed in the said territory, not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western state in the said territory, shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincents due north to the territorial line between the United States and Canada; and by the said territorial line to the lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided however, and it is further understood and declared, that the boundaries of these three states, shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan. And whenever any of the said states, shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government: Provided the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in punishment of crimes, whereof the party shall have been duly convicted: Provided always, that any person escaping into the same, from whom labour or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labour or service as aforesaid.

Done by the United States, in Congress assembled, the thirteenth day of July, in the year of our Lord one thousand seven hundred and eighty-seven, and of their Sovereignty and Independence, the twelfth.

WILLIAM GRAYSON, *Chairman.*

CHARLES THOMPSON, *Secretary.*

ARTICLES
OF
CESSION AND AGREEMENT,

Entered into on the 14th day of April, one thousand eight hundred and two, between the Commissioners appointed on the part of the United States, by virtue of an act entitled, "An act for an amicable settlement of limits with the state of Georgia, and authorising the establishment of a government in the Mississippi Territory," and of the act supplemental to the last mentioned act, on one part; and the Commissioners appointed on the part of the state of Georgia, by virtue of an act entitled, "An act to carry the twenty-third section of the first article of the constitution into effect," and of the act to amend the last mentioned act, on the other part.

ARTICLE I.

THE state of Georgia cedes to the United States all the right, title and claim which the said state has to the jurisdiction and soil of the lands situated within the boundaries of the United States south of the state of Tennessee, and west of a line beginning on the western bank of the Chatahochie river, where the same crossed the boundary line between the United States and Spain, running thence up the said river Chatahochie, and along the western bank thereof, next above the place where a certain creek or river called "Uche," (being the first considerable stream on the western side, above the Cussetas and Coweta towns) empties into the said Chatahocie river; thence in a direct line to Nickajack, on the Tennessee river; then crossing the said last mentioned river, and thence running up the said Tennessee river, and along the western bank thereof, to the southern boundary line of the state of Tennessee; upon the following express conditions, and subject thereto, that is to say:

1st. That out of the first nett proceeds of the sale of the lands thus ceded, which nett proceeds shall be estimated by deducting from the gross amount of sales the expenses incurred in surveying, and incident to the sale, the United States shall pay out of their treasury one million two hundred and fifty thousand dollars to the state of Georgia, as a consideration for the expenses incurred by the said state in relation to the said territory; and that for the better securing as prompt a payament of the said sum as is practicable, a land office for the disposition of the vacant lands thus ceded, to which the Indian title has been, or may hereafter be extinguished, shall be opened within a twelve month after the assent of the state of Georgia to this agreement, as hereafter stated, shall have been declared.

2d. That all persons who, on the twenty-seventh day of October, one thousand seven hundred and ninety-five, were actual settlers within the territory thus ceded, shall be confirmed in all the grants legally and fully executed prior to that day, by the former British government of West Florida or by the government of Spain, and in the claims which may be derived from any actual survey or settlement made under the act of the state of Georgia, entitled "An act for laying out a district of land situate on the river Mississippi, and within the bounds of this state, into a county to be called Bourbon,"* passed the seventh day of February, one thousand seven hundred and eighty-five.

3d. That all lands ceded by this agreement to the United States, shall, after satisfying the above mentioned payment of one million two hundred and fifty thousand dollars to the state of Georgia, and the grants recognized by the preceding condition be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever; provided however, that the United States, for the period and until the end of one year after the assent of Georgia to the boundary establishment by this agreement shall have been declared, may in such manner as not to interfere with the above mentioned payment to the state of Georgia, nor with the grants herein before recognized, dispose of or appropriate a portion of the said lands, not exceeding five millions of acres or of any part thereof, for the purpose of satisfying, quieting or compensating for any claims other than those herein before recognized, which may be made to the said lands, or to any part thereof. It being fully understood, that if an act of Congress making such disposition or appropriation shall not be passed into a law within the above mentioned period of one year, the United States shall not be at liberty thereafter, to cede any part of the said lands on account of claims which may be laid on the same, other than those recognized by the preceding condition, nor to compensate for the same; and in case of any such cession or compensation, the pesent cession of Georgia to the right of soil over the lands thus ceded or compensated for shall be considered as null and void, and the lands thus ceded or compensated for, shall revert to the state of Georgia.

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* The clause of the Bourbon act, alluded to above, is in the following words:

"*And whereas*, it will not be proper at present to open a land-office, for the purpose of granting out the lands in the said county, *But nevertheless it is hereby enacted and declared*, That whenever that measure shall be determined upon by this or a future legislature, there shall be a right of preference, agreeable to the laws of this State, reserved to any, all, and every honest and friendly possessor and possessors of the said lands, who shall be citizens of either of the United States, or the subjects of any power that was friendly to the United States during the war: *Provided* such persons do actually live on and cultivate the said lands, or a part thereof, and shall apply and present themselves on equal terms with other petitioners."

4th. That the United States shall, at their own expense, extinguish for the use of Georgia, as early as the same can be peaceably obtained on reasonable terms, the Indian title to the country of Talasee, to the lands left out by the line drawn with the Creeks in the year one thousand seven hundred and ninety-eight, which had been previously granted by the state of Georgia, both which tracts had formerly been yielded by the Indians; and to the lands within the forks of Oconee and Oakmulgee rivers; for which several objects, the United States have directed that a treaty should be immediately held with the Creeks; and that the United States shall, in the same manner, also extinguish the Indian title to all the other lands within the state of Georgia.

5th. That the territory thus ceded, shall form a state and be admitted as such into the Union, as soon as it shall contain sixty thousand free inhabitants, or at an earlier period if Congress shall think it expedient, on the same conditions and restrictions, with the same privileges, and in the same manner as is provided in the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the western territory of the United States; which ordinance shall, in all its parts, extend to the territory contained in the present act of cession, that article only excepted which forbids slavery.

ARTICLE II.

The United States accept the cession above mentioned, and on the conditions therein expressed; and they cede to the state of Georgia, whatever claim, right or title they may have to the jurisdiction or soil of any lands lying within the United States, and out of the proper boundaries of any other state, and situated south of the southern boundaries of the states of Tennessee, North-Carolina and South-Carolina, and east of the boundary line herein above described, as the eastern boundary of the territory ceded by Georgia to the United States.

ARTICLE III.

The present act of cession or agreement shall be in force as soon as the legislature of Georgia shall have given its assent to the boundaries of this cession; provided that the said assent shall be given within six months after the date of these presents, and provided that Congress shall not, during the same period of six months, repeal so much of any former law as authorises this agreement, and renders it binding and conclusive on the United States: But if either the assent of Georgia shall not be thus given, or if the law of the United States shall be thus repealed within the said period of six months, then, and in either case these presents shall become null and void.

In faith whereof the respective Commissioners have signed these presents, and affixed their seals. Done at the City of Washington, in the District of Columbia, this 24th day of April, 1802.

[Seal.]	JAMES MADISON,	Commissioners on the part of the United States.
[Seal.]	ALBERT GALLATIN,	
[Seal.]	LEVI LINCOLN,	
[Seal.]	JAMES JACKSON,	Commissioners on the part of the State of Georgia.
[Seal.]	ABRAHAM BALDWIN,	
[Seal.]	JOHN MILLEDGE,	

Witnesses,
J. FRANKLIN, *Senator of the United States, for North-Carolina.*
SAMUEL A. OTIS, *Secretary of the Senate of the United States.*
JOHN BECKLEY, *Clerk of the House of Rep. of the United States.*

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ACT of August 7, 1789. (Vol. I. p. 32.)

1. Sect. I. Whereas, in order that the ordinance of the United States in Congress assembled, for the government of the territory north-west of the river Ohio may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States, *it is enacted*, That in all cases in which by the said ordinance, any information is to be given or communication made by the governor of the said territory to the

United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor, to give such information and to make such communication to the President of the United States; and the President shall nominate, and by and with the advice and consent of the Senate, shall appoint all officers which by the said ordinance were to have been appointed by the United States in Congress assembled, and all officers so appointed, shall be commissioned by him: And in all cases where the United States in Congress assembled, might, by the said ordinance, revoke any commission or remove from any office, the President is hereby declared to have the same powers of revocation and removal.

2. Sect. II. In case of the death, removal, resignation, or necessary absence of the governor of the said territory, the secretary thereof shall be, and he is hereby authorized and required to execute all the powers, and perform all the duties of the governor, during the vacancy occasioned by the removal, resignation, or necessary absence of the said governor.

ACT of September 11, 1789. (Vol. I. p. 40.)

3. Sect. I. To the governor of the western territory, for his salary as such, and for discharging the duties of superintendent of Indian affairs in the northern department, two thousand dollars.

ACT of May 8, 1792. (Vol. II. p. 125.)

4. Sect. I. The laws of the territory north-west of the river Ohio, that have been or hereafter may be enacted by the governor and judges thereof, shall be printed under the direction of the secretary of state, and two hundred copies thereof, together with ten sets of the laws of the United States, shall be delivered to the said governor and judges, to be distributed among the inhabitants for their information, and a like number of the laws of the United States shall be delivered to the governor and judges of the territory south-west of the river Ohio.

5. Sect. II. The governor and judges of the territory north-west of the river Ohio, shall be, and hereby are authorized to repeal their laws by them made, whensoever the same may be found to be improper.

6. Sect. III. The official duties of the secretaries of the said territories shall be under the control of such laws, as are or may be in force in the said territories.

7. Sect. IV. Any one of the supreme or superior judges of the said territories, in the absence of the other judges, shall be, and hereby is authorized to hold a court.

8. Sect. V. The secretary of state shall provide proper seals for the several and respective public offices in the said territories.

ACT of April 7, 1798. (Vol. IV. p. 90.)

9. Sect. III. All that tract of country bounded on the west by the Mississippi; on the north by a line to be drawn due east from the mouth of the Yasous to the Chatahouchee river; on the east by the river Chatahouchee; and on the south by the thirty-first degree of north latitude, shall be, and hereby is constituted one district, to be called the Mississippi territory: And the President of the United States is hereby authorized to establish therein a government in all respects similar to that now exercised in the territory north-west of the river Ohio, excepting and excluding the last article of the ordinance made for the government thereof by the late congress, on the thirteenth day of July, one thousand seven hundred and eighty-seven, and by and with the advice and consent of the Senate, to appoint all the necessary officers, therein, who shall respectively receive the same compensations for their services; to be paid in the same manner as by law established for similar officers in the territory north-west of the river Ohio; and the powers, duties and emoluments of a superintendent of Indian affairs for the southern department, shall be united with those of governor: *Provided always*, That if the President of the United States should find it most expedient to establish this government in the recess of congress, he shall nevertheless have full power to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the session of congress next ensuing the establishment of the government.

10. Sect. IV. The territory hereby constituted one district for the purposes of government, may at the discretion of congress be hereafter divided into two districts, with separate territorial governments in each, similar to that established by this act.

11. Sect. V. The establishment of this government shall in no respect impair the right of the state of Georgia, or of any person or persons, either to the jurisdiction or the soil of the said territory, but the rights and claims of the said state and all persons interested are hereby declared to be as firm and available, as if this act had never been made.

12. Sect. VI. From and after the establishment of the said government, the people of the aforesaid territory, shall be entitled to and enjoy all and singular the rights, privileges and advantages granted to the people of the territory of the United States, north-west of the river Ohio, in and by the aforesaid ordinance of the thirteenth day of July, in the year one thousand seven hundred and eighty-seven, in as full and ample a manner as the same are possessed and enjoyed by the people of the said last mentioned territory.

13. Sect. VII. From and after the establishment of the aforesaid government, it shall not be lawful for any person or persons to import

or bring into the said Mississippi territory, from any port or place, without the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing any slave or slaves, and every person so offending, and being thereof convicted before any court within the said territory, having competent jurisdiction, shall forfeit and pay, for each and every slave so imported or brought, the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of any person or persons who shall sue for the same; and every slave so imported or brought, shall thereupon become entitled to and receive his or her freedom.

14. Sect. VIII. The sum of ten thousand dollars shall be, and hereby is appropriated, for the purpose of enabling the president of the United States to carry into effect the provisions of this act; and the said sum shall be paid out of any monies in the treasury not otherwise appropriated.

ACT of May 10, 1800. (Vol. V. p. 164.)

15. Sect. I. So much of the ordinance of congress of the thirteenth of July, one thousand seven hundred and eighty-seven, and of the act of congress of the seventh of August, one thousand seven hundred and eighty-nine, providing for the government of the territory of the United States north-west of the river Ohio, as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall forthwith operate, and be in force in the Mississippi territory: *Provided*, That until the number of free male inhabitants of full age, in the said territory shall amount to five thousand, there shall not be returned to the general assembly more than nine representatives.

16. Sect. II. Until the number of free male inhabitants of full age in the Mississippi territory shall amount to five thousand, the county of Adams shall be entitled to choose four representatives to the general assembly, the county of Pickering four, and the Tensaw and Tombigbee settlements, one.

17. Sect. III. The first election, for representatives to the general assembly, shall be on the fourth Monday in July next, and all subsequent elections shall be regulated by the legislature.

18. Sect. IV. It shall be the duty of the governor of the Mississippi territory, to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

19. Sect. V. The representatives shall be convened by the governor at the town of Natchez, on the fourth Monday in September next.

20. Sect. VI. So soon as the number of free male inhabitants of full age shall amount to, or exceed five thousand, the number of representatives to the general assembly shall be determined, and the apportionment made in the way prescribed in the ordinance.

21. Sect. VII. Nothing in this act shall in any respect impair the right of the state of Georgia to the jurisdiction, or of the said state, or of any person or persons to the soil of the said territory, but the rights and claims of the said state, and all persons interested, are hereby declared to be as firm and available as if this act had never been made.

22. Sect. VIII. The general assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day: *Provided*, That the governor shall have power on extraordinary occasions to convene the general assembly.

23. Sect. IX. Neither house during the session of the general assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

ACT of February 24, 1804. (Vol. VII. p. 26.)

24. Sect. IV. To the end that the laws providing for the collection of the duties imposed, by law, on goods, wares, and merchandise, imported into the U. States, and on the tonnage of ships and vessels, and the laws respecting the revenue and navigation of the United States may be carried into effect, within the said territories, the territories ceded to the United States, by the treaty above mentioned, and also all the navigable waters, rivers, creeks, bays, and inlets, lying within the United States, which empty into the Gulf of Mexico, east of the river Mississippi, shall be annexed to the Mississippi district, and shall, together with the same, constitute one district, to be called the "District of Mississippi." The city of New-Orleans shall be the sole port of entry in the said district, and the town of Bayou St. John shall be a port of delivery, a collector, naval officer and surveyor shall be appointed to reside at New-Orleans, and a surveyor shall be appointed to reside at the port of Bayou St. John; and the President of the United States, is hereby authorised to appoint, not exceeding three surveyors, to reside at such other places, within the said district as he shall deem expedient and to constitute each or either of such places ports of delivery only. And so much of any law or laws, as establishes a district on the river Mississippi south of the river Tennessee, is hereby repealed, except as to the recovery and receipt of such duties on goods, wares, and merchandize, and on the tonnage of ships or vessels, as shall have accrued, and as to the recovery and distribution of fines, penalties, and forfeitures, which shall have been incurred before the commencement of the operation of this act.

25. Sect. V. The shores and waters of the town of Natchez, shall be one district to be called the district of Natchez, and a collector shall be appointed who shall reside at Natchez, which shall be the only port of entry or delivery within the said district of any goods, wares, and merchandize, not the growth or manufacture of the United States: *Provided nevertheless*, That it shall be the duty of every master or commander of any ship or vessel destined for the said port of Natchez, to stop at New-Orleans, and there deliver to the collector of said port a manifest of the cargo on board such ship or vessel agreeably to law, on penalty of five thousand dollars. And it shall be the duty of said collector to transmit a certified copy of such manifest to the collector of the said port of Natchez, and to direct an inspector to go on board such ship or vessel and proceed therewith to the port of Natchez, and there report such ship or vessel to the collector of said port of Natchez immediately after his arrival, when the duty of said inspector shall cease.

26. Sect. VI. Foreign ships or vessels shall be admitted to unlade at the port of New-Orleans and at no other port within the district of Mississippi; and ships or vessels belonging to citizens of the United States coming directly from France or Spain or any of their colonies, shall not be admitted to unlade at any port within the district of Mississippi other than New-Orleans: and ships or vessels arriving from the Cape of Good Hope, or from any place beyond the same shall be admitted to make entry at the port of New-Orleans and at no other port within the district of Mississippi: *Provided however*, That nothing in this act contained, shall authorise the allowing of drawbacks on the exportation of any goods, wares and merchandize from the said port of New-Orleans other than on those which shall have been imported directly into the same, from a foreign port or place.

27. Sect. VII. The master or commander of every ship or vessel, bound to a port of delivery only, other than the port of Bayou St. John, in the district of Mississippi shall first come to at the port of New-Orleans with his ship or vessel, and there make report and entry, in writing, and pay, or secure to be paid all legal duties, port fees, and charges, in manner provided by law, before such ship or vessel shall proceed to her port of delivery: and any ship or vessel, bound to the port of Bayou St. John, may first proceed to the said port, and afterwards make report and entry at the port of New-Orleans, within the time by law limited; and the master of every ship or vessel, arriving from a foreign port or place, or having goods on board of which the duties have not been paid or secured, and bound to any port within the district of Mississippi, (other than New-Orleans, or Bayou St. John,) shall take an inspector on board, at New-Orleans, before proceeding to such port; and if any master of a ship or vessel, shall proceed to such port of delivery contrary to the directions aforesaid, he shall forfeit and pay five hundred dollars, to be recovered in any court of competent jurisdiction, with the costs of suit.

28. Sect. XI. The President of the United States shall be, and he hereby is, authorised, whenever he shall deem it expedient, to erect the shores, waters and inlets of the bay and river Mobile, and of the other rivers, creeks, inlets, and bays emptying into the gulf of Mexico east of the said river Mobile, and west thereof to the Pascagoula inclusive, into a separate district, and to establish such place within the same, as he shall deem expedient, to be the port of entry and delivery for such district; and to designate such other places, within the same district, not exceeding two, to be ports of delivery only. Whenever such separate district shall be erected, a collector shall be appointed, to reside at the port of entry; and a surveyor shall likewise be appointed to reside at each of the ports of delivery which may be established. And such collector and surveyor shall be entitled to receive in addition to their other fees and emoluments, an annual salary of two hundred and fifty dollars. And the said collector shall give bond for the faithful discharge of the duties of his office in the sum of five thousand dollars.

ACT of March 27, 1804. (Vol. VII. p. 161.)

29. Sect. I. There shall be appointed an additional judge for the Mississippi territory, who shall reside at or near the Tombigbee settlement, and who shall possess and exercise, within the district of Washington, as fixed and ascertained by an act of general assembly of the Mississippi territory, entitled, "An act for the more convenient organization of the courts of the said territory," the jurisdiction heretofore possessed and exercised by the superior court of the said territory within the said district of Washington, and to the exclusion of the original jurisdiction of the said superior court within the same: *Provided always*, That the said superior court shall have full power and authority to issue writs of error to the court established by this act and to hear and determine the same, when sitting, for the district of Adams, as fixed and ascertained by the act of the general assembly of the Mississippi territory, herein before mentioned.

30. Sect. II. The said superior court are hereby authorised, upon the reversal of a judgment of the court established by this act, to render such judgment as the said court ought to have rendered or passed except where the reversal is in favor of the plaintiff in the original suit, and the debt or damages to be assessed are uncertain in which case the cause shall be remanded in order to final determination.

31. Sect. III. When any person, not being an executor or administrator, applies for a writ of error, such writ of error shall be no stay of proceedings in the court to which it issues, unless the plaintiff in error shall give security, to be approved of by a judge of the said superior court, that the plaintiff in error shall prosecute his writ to effect, and pay the condemnation money and all costs, or otherwise abide the judgement in error, if he fail to make his plea good.

32. Sect. IV. All pleas, process and proceedings whatever, which may have been commenced in the said superior court within the aforesaid district of Washington, shall be, and the same are hereby transferred to the court established by this act, and the officers appointed to issue or execute the process of the said superior court within the district of Washington, and to record the proceedings of the same, are hereby authorised and required to issue and execute the process of the court established by this act, and to record the proceedings thereof.

33. Sect. V. The court established by this act, shall hold two terms in each and every year, at the place where the courts for Washington county, within the said territory, shall be held, to commence on the days following, to wit: on the first Monday in May and September, annually; and shall then and there proceed to hear and determine the pleas process and proceedings depending before them, in the same manner as the said superior court within the district of Washington aforesaid, might or could have done, in case this act had not been passed.

34. Sect. VI. The judge to be appointed by virtue of this, shall receive the same salary, and payable in the same manner, which is established by law for judges of the said superior court of the Mississippi territory.

ACT of March 3, 1805. (Vol. VII. p. 327.)

35. The superior courts of the several territories of the United States, in which a district court has not been established by law, shall in all cases in which the United States are concerned, have and exercise, within their respective territories, the same jurisdiction and powers which are by law given to, or may be exercised by the district court of Kentucky district: and writs of error and appeals shall lie, from decisions thereon, to the supreme court, for the same causes, and under the same regulations, as from the said district court of Kentucky district.

ACT of September 24, 1789. (Vol. I. p. 47.)

36. Sect. X. The district court in Kentucky district shall, besides the jurisdiction aforesaid, have jurisdiction of all other causes, except of appeals and writs of error, herein after made cognizable in a circuit court, and shall proceed therein in the same manner as a circuit court, and writs of error and appeals shall lie from decisions therein to the supreme court in the same causes, as from a circuit court to the supreme court, and under the same regulations. And the district court in Maine district, shall, besides the jurisdiction herein before granted, have jurisdiction of all causes, except of appeals and writs of error herein after made cognizable in a circuit court, and shall proceed therein in the same manner as a circuit court: And writs of error

shall lie from decisions therein to the circuit court in the district of Massachusetts in the same manner as from other district courts to their respective circuit courts.

ACT of April 18, 1806. (Vol. VIII. p. 155.)

37. The provisions of the act, entitled "An act for providing compensation for the marshals, clerks, attornies, jurors and witnesses, in the courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes," passed February the twenty-eighth, one thousand seven hundred and ninety-nine, shall be and the same hereby are extended to the territories of the United States, so far as the said act may relate to the provisions of the act, entitled "An act to extend jurisdiction in certain cases to the territorial courts," passed March the third, one thousand eight hundred and five; excepting that the clerks of the said territorial courts shall not receive the additional five dollars per day, allowed to clerks of the circuit and district courts by the third section of the act first mentioned.

ACT of March 3, 1807. (Vol. VIII. p 277.)

38. Each of the judges of the Mississippi, Indiana, Michigan, and Louisiana territories, appointed under the authority of the United States, shall be entitled to the annual sum of twelve hundred dollars, in lieu of his present compensation, to commence on the first day of January last.

ACT of December 5, 1807. (Vol. IX. p. 4.)

39. Each of the secretaries of the Mississippi, Indiana, Louisiana and Michigan territories, appointed under the authority of the United States, shall be entitled to the annual sum of one thousand dollars in lieu of his present compensation, to commence on the first day of January next.

ACT of January 9, 1808. (Vol. IX. p. 14.)

40. Sect. I. Every free white male person in the Mississippi territory, above the age of twenty-one years, having been a citizen of the United States, and resident in the said territory one year next preceding an election of representatives, and who has a legal or equitable title to a tract of land, by virtue of any act of Congress, or who may become the purchaser of any tract of land from the United States of the quantity of fifty acres, or who may hold in his own right a town lot of the value of one hundred dollars within the said territory, shall be entitled to vote for representatives to the general assembly of said territory.

41. Sect. II. The general assembly of the territory aforesaid, shall have power to apportion the representatives of the several counties

therein, or which may hereafter be established therein, according to the number of free white male inhabitants above the age of twenty-one years in such counties: *Provided*, That there be not more than twelve, nor less than ten of the whole number of representatives; any act or acts to the contrary, notwithstanding, until there shall be six thousand free white male inhabitants of full age, in said territory; after which time the number of representatives shall be regulated agreeably to the ordinance for the government thereof.

42. Sect. III. The citizens of the said territory, entitled to vote for representatives to the general assembly thereof, shall, at the time of electing their representatives to the said general assembly, also elect one delegate from the said territory to the Congress of the United States, who shall possess the same powers heretofore granted to the delegates from the several territories of the United States; any thing in the ordinance for the government of said territory to the contrary notwithstanding.

ACT of March 2, 1810. (Vol. X. p. 60.)

43. Sect. I. The citizens of Madison county, in the Mississippi territory, qualified according to law, shall be and they are hereby authorised to elect one representative to the general assembly of said territory, and also to vote for one delegate from said territory, to the Congress of the United States, which election shall be held at the same time, and in the same manner, as is or may be provided by law for the eleccion in the several counties of said territory.

44. Sect. II. An additional judge shall be appointed for the Mississippi territory who shall reside in said county of Madison, and have the same compensation, which is by law allowed to the other judges of said territory, and shall possess and exercise the same power and jurisdiction within said county, which are possessed and exercised in the county of Washington in said territory, by the judge appointed by virtue of an act, entitled "An act for the appointment of an additional judge for the Mississippi territory and for other purposes," passed the twenty-seventh of March, one thousand eight hundred and four.

45. Sect. III. All final judgments and decrees, rendered in the superior courts of said counties of Washington and Madison, may be re-examined and reversed or affirmed, by the superior court of Adams county in said territory, upon a writ of error issued from said superior court; which said superior court is hereby empowered, upon the reversal of any judgment or decree of said courts of Washington and Madison counties, to render such judgment as the court from whence the cause may have been removed ought to have rendered; except where a jury may be requisite to try issues or assess damages. In which cases the cause shall be remanded to the court where it originated; there to be proceeded in. And said superior court of Adams

county, when sitting on the trial of any cause removed as aforesaid, shall be composed of not less than two judges.

46. Sect. IV. The legislature of said territory shall have power and is hereby authorised, to establish a superior court in each county, which has been or may be formed within the bounds which compose the former district or county of Washington, to be holden by the judge who holds the superior court of Washington county in said territory, which courts and the courts of Madison county to be holden at such times and places as said legislature may direct. And all final judgments and decrees to be rendered by any superior court so established, may be re-examined and reversed or affirmed in the manner prescribed by the third section of this act, and the conditions on which any writ of error shall be obtained, and all other proceedings relative thereto, may be regulated by said legislature.

47. Sect. V. So much of the act, entitled "An act for the appointment of an additional judge for the Mississippi territory, and for other purposes," passed the twenty-seventh day of March, one thousand eight hundred and four, as comes within the purview of this act, shall be, and the same is hereby repealed.

ACT of May 14, 1812. (Vol. XI. p. 175.)

48. All that portion of territory lying east of Pearl river, west of the Perdido, and south of the thirty-first degree of latitude, shall be, and the same is hereby annexed to the Mississippi territory; to be governed by the laws now in force therein, or which may hereafter be enacted, and the laws and ordinances of the United States, relative thereto, in like manner as if the same had originally formed a part of said territory; and until otherwise provided by law, the inhabitants of the said district hereby annexed to the Mississippi territory, shall be entitled to one representative in the general assembly thereof.

RESOLUTION of June 17, 1812. (Vol. XI p. 319.)

49. The legislature of the state of Georgia shall be, and they are hereby requested to give their assent by law to the formation of two states of the Mississippi territory: *Provided*, In the opinion of congress a division of said territory for that purpose should hereafter be expedient.

ACT of December 18, 1812. (Vol. XI. p. 339.)

50. Hereafter it shall be incumbent upon the district and territorial judges of the United States to reside within the districts and territories respectively for which they are appointed; and that it shall not be lawful for any judge appointed under the authority of the United States, to exercise the profession or employment of counsel or attor-

ney, or to be engaged in the practice of the law. And any person offending against the injunction or prohibition of his act, shall be deemed guilty of a high misdemeanor.

ACT of February 27, 1813. (Vol. XI. p. 391.)

51. There shall be appointed in the respective territories of the United States, a person learned in the law, to act as attorney of the United States, who shall, besides the usual fees of office, receive an annual salary of two hundred and fifty dollars, payable quarter yearly, at the Treasury of the United States; and there shall also be appointed, in each of said territories, a marshal, who shall receive the same fees and compensation as is allowed by law to the marshal of the district of Kentucky.

ACT of July 22, 1813. (Vol. XII. p. 85)

52. From and after the first day of August next, the town of Mobile shall be, and the same is hereby established the sole port of entry for the district, including the shores, waters, and inlets of the bay and river Mobile, and of the other rivers, creeks, inlets, and bays, emptying into the gulph of Mexico, east of the said river Mobile, and west thereof to the eastern boundary of the state of Louisiana.

ACT of October 25, 1814. (Stat. U. S. p. 3.)

53. Sect. I. Each and every free white male person being a citizen of the United States, who shall have attained the age of twenty-one years, and who shall have paid a county or Territorial tax, and who also shall have resided one year in said Territory previous to any general election, and be at the time of any such election a resident thereof, shall be entitled to vote for members of the house of representatives, and a delegate to congress, for the territory aforesaid: any thing in the ordinance, or in any act relative to the government of said territory to the contrary notwithstanding.

54. Sect. II. The house of representatives of the territory aforesaid, be, and they hereby are authorised, to nominate eight persons, being citizens of the United States, to the President of the United States, four of whom shall be appointed members of the legislative council for said territory, in addition to the number already provided, any act or ordinance to the contrary notwithstanding.

STATUTES

OF THE

MISSISSIPPI TERRITORY.

ADVERTISEMENTS.

Public notices, in what paper to be printed 1
Penalty for pulling down 2

ACT of December 24, 1814. (Statute p. 41.)

1. From and after the passage of this act, it shall and may be lawful, for all tax collectors, other officers or persons, who by law are required to advertise any notice in any newspaper in this territory, to publish the same in that paper which is most convenient to the person or persons thus required to advertise, any law or custom to the contrary notwithstanding.

ACT of December 27, 1814. (Sat. p. 75.)

2. Sect. XXX. If any person shall wilfully pull down any advertisement, which is required by law to be set up by any person or persons; he or she so offending, shall forfeit for the first offence five dollars, and for every like offence thereafter ten dollars, to be recovered before any justice of the quorum or of the peace, by any person suing for the same; which fine when collected shall be paid into the county treasury, for county purposes.

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ACT of January 8, 1807. (Digest p. 414.)

1. Sect. I. The following persons, members of said society, to wit: Cato West, Thomas M. Green, Thomas Fitzpatrick, John Shaw, Daniel Beasley, Charles Howell, William Snodgrass, David Snodgrass, Edward Turner, John Hopkins, Henry D. Downs, James S. Rollins, Thomas Calvit, Robert Cox, Henry Green, Felix Hughes, Armstrong Ellis, Jacob Stampley, John Brooks, Thomas Hinds, Wm. Thomas, and Robert McCray, and such other persons as now are or shall from time to time, become members of the said society, shall be and are hereby ordained and constituted a body corporate, by the name of the "Franklin Society," and by that name they and their successors shall be persons in law, capable of suing and being sued, pleading and being impleaded, answering and being answered, defending and being defended in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and cases whatsoever.

2. Sect. II. They and their successors may have a common seal, change and alter the same at their pleasure, and that they and their successors, by the same name, shall be persons capable in law to pur-

chase, take, receive, hold and enjoy to them and their successors any real estate in fee simple, or for term of life or lives, or otherwise, and any goods, chattels, or personal estate, for the purpose of enabling them the better to carry into execution, encourage and promote such measures as may tend to promote said institution. *Provided always*, That the clear yearly value of such real and personal estate, shall not exceed the value of twenty thousand dollars, and that they and their successors shall have full power and authority to give, grant, sell, lease, demise and dispose of the said real and personal estate, or any part thereof, at their will and pleasure, and that they and their successors shall have power from time to time to make, constitute, ordain and establish such bye-laws, constitutions, ordinances and regulations as they shall judge proper, for the election of their officers, for the election and admission of new members of the said corporation, and the terms and manner of admission, for the better government and regulation of their officers and members, for the fixing the times and places of the meetings of the said corporation, and for the regulating all the affairs and business of the said corporation: *Provided*, Such bye-laws and regulations shall not be repugnant to the constitution and the laws of the United States and of this territory.

3. Sect. III. This act shall be deemed a public act, and taken notice of and given in evidence as such in all courts of law and equity in this territory, without special pleading.

ACT of December 5, 1809. (Stat. p. 28.)

4. Sect. I. The school on the north fork of Bayou Pierre, in the neighbourhood of Port Gibson, now under the direction of Henry C. Cox, be, and the same is hereby erected into an Academy, hereafter to be known by and bear the name of Madison Academy.

5. Sect. II. Samuel Gibson, Thomas White, Stephen Bullock, Peter Lyon, Thomas Barnes, Ralph Regan, Waterman Crane, Allen Barnes, Daniel Burnet, Samuel Cobun, Eden Brashears, Andrew Mundell, and Hezekiah Harman shall, and they are hereby declared to be a body corporate, by the name of the Trustees of the Madison Academy, and by that name shall be capable in law to receive all donations, and to recover all debts which may become the property of said Academy, and in general to do all acts for the benefit of said Academy, which are incident to bodies corporate.

6. Sect. III. The first meeting of the trustees shall be at the said Academy on the first Saturday in February next, when they shall proceed to elect out of their own body, a President and Vice-President, Secretary and Treasurer: the President, or in his absence the Vice-President shall have power to call extraordinary meetings of the trustees, by giving the members due notice thereof; the ordinary meetings of the board shall be on their own adjournments; seven members shall constitute a board to do business.

7. Sect. IV. In case of death, removal from the county, resignation, refusal or neglecting to act, of any of the trustees, the board may at any time appoint a successor.

8. Sect. V. The trustees and their successors shall have power to engage a President, and other professors, and all other officers, necessary for conducting the literary concerns of the Academy, and displace and appoint others at pleasure; they shall have power and authority, and it shall be their duty, to examine the proficiency of the students, and to make all laws and regulations which they shall judge necessary for the good government of said Academy. And for promoting learning, morality and virtue among the students, they shall take effectual care that students of all denominations may, and shall be admitted to equal advantages, and that they receive alike fair and generous treatment during their residence thereat.

9. Sect. VI. The trustees be, and they are hereby authorised to raise by way of lottery, for the benefit of said Academy, a sum not exceeding two thousand dollars, on such scheme or plan as the said trustees may deem most advisable.

ACT of December 1, 1814. (Stat. p. 11.)

10. The board of trustees of Madison Academy (a majority of the whole number agreeing) be and they are hereby authorised to change the scite of said academy to one that may be more eligible; and such scite when so fixed on shall be the permanent scite of said academy: *Provided*, It shall not be more than three miles from the town of Port Gibson in Claiborne county.

ACT of December 17, 1811. (Stat. p. 78.)

Sec. 1, 2, 3, *repealed* 24*th*, *December* 1814.

11. Sect. IV. The board of trustees shall have power and authority to fix on some convenient situation whereat to establish the Academy, and to contract for erecting the necessary buildings. They shall also have power to engage a President and other professors, and all other officers necessary for conducting the civil and literary concerns of the Academy, and to displace and supercede them at pleasure. They shall have power and authority to examine the proficiency of the students, and to make all laws and regulations which they shall judge necessary for the good government of the Academy, and for promoting morality and virtue among the students.

12. Sect. V. In case of death, removal from the Territory, resignation or refusal to act, of any of the trustees, the board may at any of their meetings appoint a successor.

13. Sect. VI. The lands, public buildings, and other property belonging to the Washington Academy, are hereby declared to be free from any kind of public tax.

14. Sect. VII. The trustees be, and they are hereby authorised to raise by way of lottery (for the benefit of said Academy) a sum not exceeding five thousand dollars, on such scheme or plan as they may deem most advisable.

ACT of November 25, 1812. (Stat. p. 6.)

15. The Trustees of Washington Academy shall have their first meeting at the Court-house of Washington county, in the town of Rodney, on the third Monday in March next, and in case there should not a sufficient number of trustees attend to form a quorum to proceed to business, then, and in that case, any three members may call the meeting aforesaid, by giving at least ten days notice by advertisement, at three or more public places within the district of Washington.

ACT of December 24, 1814. (Stat. p. 43.)

16. Sect. I. There shall be established in Washington or Clarke county, an academy, which shall bear the name of Washington Academy.

17. Sect. II. The following persons, viz. Lewis Sewall, James Caller, George S. Gaines, Joseph Phillips, Thomas Malcone, Joseph Carson, Thomas B. Creagh, Benjamin S. Smoot, Reuben Saffold, Benjamin J. Biddill and John Dean shall be a body corporate, by the name of the trustees of the Washington Academy, and by that name shall be capable in law to sue and be sued, plead and be impleaded, and receive all donations, and recover all debts which may become the property of the said academy, and may in general do all acts for the benefit of the institution, which are incident to bodies corporate.

18. Sect. III. The first meeting of the trustees shall be held on the third Monday in February next, at the town of St. Stephens, in the county of Washington, when they shall proceed to choose out of their own body, a president and vice-president—The president or in his absence the vice-president shall have power to call extraordinary meetings of the trustees by giving at least ten days notice by advertisement, in some newspaper published in the territory, or at three or more public places in each of the counties of Washington and Clarke. The ordinary meetings of the board shall be held on their own adjournments: nine members shall constitute a quorum to do business at the first meeting, but at all subsequent meetings, seven shall constitute a quorum to proceed to business. The president, or in his absence, the vice-president shall preside, or in case of the absence of both, any member chosen by a majority of the members present shall preside.

19. Sect. IV. The first, second, and third sections of the act to which this act is amendatory, be and the same are hereby repealed.

ACT of November 25, 1812. (Stat. p. 7.)

20. Sect. I. There shall be established in Madison county, an Academy, which shall bear the name of Green Academy.

21. Sect. II. The following persons, to wit: William Edmonson, John Brahan, William Lesley, James M'Carty, Peter Perkins, Charles Buris, William Derrick, James Neely, John Grayson, Henry Cox, Bennett Woods, Samuel Allen, Andrew K. Davis, William Evans and Nathan Power, shall be a body corporate by the name of the Trustees of Green Academy, and by that name shall be capable in law to receive all donations, and recover all debts which may become the property of said academy, and may in general do all acts for the benefit of the institution, which are incident to bodies corporate.

22. Sect. III. The first meeting of the trustees shall be holden on the Saturday preceding the third Monday in April next, at the Court-house of Madison county, when they shall proceed, out of their own number, to choose a president and vice-president; and in case a sufficient number of trustees should not attend at the time appointed for their first meeting, then, and in that case, it shall be in the power of any three members to call a meeting of the trustees aforesaid, by advertisement in the Madison Gazette, or at three or more public places within the county, at least ten days before the time of said meeting. The president, or in his absence the vice-president, shall have power to call all extraordinary meetings of the trustees by giving notice as aforesaid; the ordinary meetings of the board shall be held on their own adjournments; nine members shall constitute a quorum to do business, at the first meeting, but all subsequent meetings, five shall constitute a quorum to proceed to business. The president, or in his absence the vice-president, shall preside, or in case of the absence of both, any member chosen by a majority present, shall preside.

23. Sect. IV. The board of trustees shall have power and authority to fix on some convenient situation, whereat to establish the academy, and to contract for erecting the necessary buildings; they shall also have the power to engage a president, and other professors, and all other officers necessary for conducting the civil and literary concerns of the academy, and to displace and supercede them at pleasure; they shall have power and authority to examine the proficiency of the students, and to make all laws and regulations they may think necessary for the good government of the academy, and for promoting morality among the students.

24. Sect. V. In case of death, removal from the territory, resignation or refusal to act, the board may at any of their meetings appoint a successor.

25. Sect. VI. The lands, public buildings, and other property belonging to the Academy of Green, are hereby declared to be free from any kind of public tax.

26. Sect. VII. The trustees be, and they are hereby authorised, by way of lottery, for the benefit of said academy, to raise a sum not exceeding four thousand dollars on such scheme or plan as they may deem most advisable.

ACT of January 22, 1814. (Stat. p. 42.)

27. David Thompson, John Moore, Francis E. Harris, James Manning and Robert Thompson be, and they are hereby appointed additional trustees for Green Academy.

ACT of December 27, 1814. (Stat. p. 24.)

28. Sect. I An academy be and is hereby established in Wilkinson county to be known by the name of Jackson Academy, to be under the superintendance of Daniel Williams, senior, James Stuart, Samuel Riley, Lovick Vintress, John Davis, Samuel Norwood, Francis Richardson, William Bryan and John Nismith, and their successors, who are hereby constituted a body corporate, to be known by the name and style of the Board of Trustees of the Jackson Academy, and made capable of receiving donations for the benefit of the institution, of suing and being sued, and of doing and performing all other acts, and shall possess all other powers incident to bodies corporate.

29. Sect. II. The aforesaid trustees and their successors shall have power to fill all vacancies in their board by death, resignation, removal or refusal to act; to appoint their president and other officers, to engage a principal professor and such other teachers as may be necessary for conducting the literary concerns of the academy, and remove them at pleasure; to hold stated or called meetings of the board for the purpose of examining into the proficiency of the students, and to make all bye laws and regulations for the good government of the seminary and the promotion of learning, virtue and morality among the students; and five of said trustees shall form a quorum capable of transacting business.

30. Sect. III. The said t[illegible]ees shall hold their first meeting on the first Monday of January next, and at such other times thereafter as they or a majority of them think expedient.

31. Sect. IV. For the purpose of creating funds for the support of said institution, the trustees aforesaid are authorized to raise a sum not exceeding one thousand dollars by lottery.

ACT of December 8, 1815. (Stat. p. 20.)

32. Sect. I. An Academy be and is hereby established in Amite county to be known by the name of Amite Academy, to be under the

superintendance of James Smylie, Roger Dunn, Lewis Perkins, Thomas Torrence, James Lea, James Chandler, David Nelson, Joseph Forman, John Thomson, Thomas Waggoner and David Winborne and their successors, who are hereby constituted a body corporate to be known by the name and style of the Board of Trustees of the Amite Academy, and made capable of receiving donations for the benefit of the institution ; of sueing and being sued, and of doing and performing all other acts and shall possess all other powers incident to bodies corporate.

33. Sect. II. The aforesaid Trustees shall have power to fix on a site for the said Academy, which site shall not be more than three miles from the town of Liberty ; and they and their successors shall have power to fill all vacancies in their board occasioned by death, resignation, removal or refusal to act; to appoint their President and other officers, to engage a principal professor and such other teachers as may be necessary for conducting the literary concerns of the Academy, and remove them at pleasure, to hold stated or called meetings of the board for the purpose of examining into the proficiency of the students, and to make all bye-laws and regulations for the good government of the Seminary and the promotion of learning, virtue and morality among the students ; and any six of said Trustees shall form a quorum capable of transacting business.

34. Sect. III. The said Trustees shall hold their first meeting on the first Monday in February next, and at such other times thereafter as they or a majority of them think expedient.

ACT of December 23, 1815. (Stat. p. 68.)

35. Sect. I. An Academy be and is hereby established at the town of Pinckneyville in Wilkinson county, to be known by the name of the Pinckneyville Academy, to be under the superintendance of Richard Butler, Moses Hooke, Richard Davidson, Edward Randolph, Gerard C. Brandon, John F. Carmichael, Henry Hunter, John R. Holliday, Thomas Dawson and their successors ; who are hereby constituted a body corporate to be known by the name and style of the Board of Trustees of the Pinckneyville Academy and they are hereby made capable of receiving donations for the benefit of said Academy, of sueing and being sued, of doing and performing all other acts and exercising all other powers incident to bodies corporate.

36. Sect. II. The aforesaid Trustees and their successors, shall have power to fill all vacancies occasioned in their board by death, resignation, removal or refusal to act ; to appoint their president and secretary, to engage a principal teacher and such other teacher or teachers as may be necessary for conducting the literary concerns of the academy. To hold stated and called meetings of the board for the purpose of examining into the proficiency of the students and to make

laws and regulations for the government of the institution and promoting learning, virtue and morality among the students.

37. Sect. III. The aforesaid Trustees shall hold their first meeting at Pinckneyville on the first Wednesday in February next; That the president, and in case of his absence any three members shall have power to call a meeting of the Board, and any five members shall constitute a quorum capable of transacting business.

ACT of December 23, 1815. (Stat. p. 72.)

38. Sect. I. An Academy be and is hereby established in Wilkinson county, the site to be within one mile of the town of Woodville, to be known by the name of Wilkinson Academy, to be under the superintendance of John Coulter, Abram M. Scott, Joseph Johnson, William Connel, John B. Posey, John Nugent, William Vaughan, Micajah Frazier, Robert G. Leckie and their successors, who are hereby constituted a body corporate, to be known by the name and style of the Board of Trustees of Wilkinson Academy, and they are hereby made capable of receiving donations for the benefit of the institution, of sueing and being sued, doing and performing all other acts, and shall possess all other powers incident to bodies corporate.

39. Sect. II. The aforesaid trustees and their successors shall have power to fill all vacancies occasioned in their board by death, resignation, removal or refusal to act, to appoint their president and other officers, to engage such teacher or teachers as may be necessary for conducting the literary concerns of the Academy, to hold stated and called meetings of the board for the purpose of examining into the proficiency of the students, and to make all bye-laws and regulations for the government of the institution and promoting learning, virtue and morality among the students. The president may at any time call a meeting of the board, and any five members shall form a quorum capable of transacting business.

40. Sect. III. The said trustees shall hold their first meeting at the town of Woodville, on the first Saturday in February next, and at such other time as they may think expedient, and that for the purpose of creating a fund for the support of said institution, the said trustees are authorized to raise a sum not exceeding one thousand dollars by lottery upon such scheme as they may devise.

ATTORNIES.

Who may practice as attorney . . 1
Persons guilty of felony not to practice 2
Judges may suspend their licence . . 3
Liable for neglect of duty 4
How liable for refusing to pay over money 5
For neglecting to enter defendants appearance 6
But two to appear in a cause . . . 7
Not to appear under warrant given before suit 8
Certain officers not to practice . . 9
Persons may prosecute or defend their own suits 10

ACT of January 30, and May 13, 1802, revised and amended February 10, 1807. (Digest p. 226.)

1. Sect. I. No person shall hereafter be permitted to practice as counsel or attorney at law, in any of the courts of this territory, without previously producing to the court a licence from the governor of the territory, for the time being: and in the presence of such court, shall take an oath to support the constitution of the United States; and also the following oath of office:—"I, A. B. do solemnly swear (or affirm) that I will honestly demean myself in the practice as counsel or attorney: and will, in all respects, execute my office according to the best of my knowledge and abilities." And if any person shall presume to practice as counsel or attorney, without being licenced and qualified as aforesaid, he shall forfeit the sum of two hundred dollars for every cause he shall prosecute or defend, in any court in this territory; one half to the use of the informer, the other half to the use of the territory; to be recovered by action of debt in any court of record: *Provided*, That nothing herein contained shall be so construed as to prevent or deprive any citizen from the privilege of personally prosecuting or defending any suit, in which he may be a party.

2. Sect. II. That every person that hath already been, or shall hereafter be convicted of any felonious crime, shall be incapable of obtaining such licence; or if licenced, the judges of any court, in which such person may practice, on proof thereof being made to them, may supercede his licence.

3. Sect. III. If the judges of the superior courts, from their own observation, detect any mal-practice in the said courts, in any counsel or attorney of those courts; or if complaint in writing be made to them of such mal-practice in the said courts, or in the county courts of any county, the party accused shall be summoned to shew cause why an information should not be filed against him: and if such information should be ordered, and the counsel or attorney so offending

should be found guilty of the matter therein charged, the said judges of the superior courts may either suspend his licence during a certain time, or vacate it altogether, as they shall judge most proper; first ordering a jury to be impanneled for the trial of such information. And the judges of the superior, and justices of the county courts, shall have power to fine any attorney for misbehaviour or contempt offered to them, and may cause any attorney practising in said courts, to find security for his good behaviour.

4. Sect. IV. If any suit shall be dismissed for the non-attendance or neglect of an attorney, practising either in the superior or county courts, not having a just and reasonable excuse, it shall be at his cost. And he shall moreover be liable for all damages his client may sustain by such dismission, or any other neglect of his duty; to be recovered in any court of record.

5. Sect. V. Every attorney receiving money for his client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice before any court of record; in the same manner as sheriffs are, or may be liable to be proceeded against for money received on executions.

6. Sect. VI. In all cases where the sheriff is, or may be authorised by law, to take the engagement of an attorney, endorsed upon the writ, that he, such attorney, will appear for the defendant or defendants; every attorney thus entering into such engagement, who shall fail to enter an appearance agreeably thereto, shall forfeit to the defendant or defendants, twenty-five dollars; for which judgment shall be immediately entered, and execution issue thereon.

7. Sect. VII. The judges of the superior courts, and the justices of the county courts, shall not suffer more than two attornies to argue on any side, in any suit.

8. Sect. VIII. If any attorney, or other person, practising as an attorney, shall presume to appear under any power of attorney, made before action brought, for confessing or suffering judgment to pass, by default or otherwise, for any defendant in any court of record within this territory, he shall for every such offence, forfeit and pay two thousand dollars, to such defendant, for his or her own use; to be recovered with costs by action of debt or information, in any court of record; and moreover shall be liable to an action for damages, at the suit of the party aggrieved.

9. Sect. IX. No justice of the peace, sheriff, or under sheriff, or clerk of any county court, shall appear, or plead as attorney, for any person or persons, whatsoever, in the court of the county whereof he is a member, officer, or clerk; except only as general attorney for any person or persons, not residing, or being within this territory; under

penalty of being fined by such court, in the sum of fifty dollars, for every such offence; to the use of the same county, towards lessening the levy thereof.

Sect. X. *Repealed December* 24, 1812.

10. Sect. XI. Nothing in this act shall be construed as to prevent or deprive any citizen from the privilege of personally prosecuting or defending any suit in which he may be a party.

ATTORNIES GENERAL.

West of Pearl River 1
His duty 2
When he fails to attend court to appoint one . . . . ib.
Acc'ts of public nature presented them 3
Attor. Gen. west of Pearl river to reside at Washington . . . . . ib.
To advice certain public officers . ib.
Fees of, to be paid into the treasury . 4
Attor. Gen. west of Pearl river not to attend county cuorts 5
For Madison county 6
West of Pearl river, to attend superior courts 7
His salary 8
To attend other courts 9
East of Pearl river 10
West of Pearl river, further duty . 11
Of Madison county, his salary . . 12
When to commence . . . . ib.
East of Pearl river, his salary . . 13

ACT of February 10, 1807. (Dig. p. 229.)

1. Sect. I. From and after the passing of this act, there shall be one attorney-general appointed in and for the counties of Wilkinson, Adams, Jefferson and Claiborne.

2 Sect. II It shall be the duty of the said attorney-general, and he is hereby directed to attend the circuit courts, to be held for the counties of Adams, Jefferson, Wilkinson and Claiborne: in which said courts it shall be his duty to appear for the territory in all criminal prosecutions, and in all civil cases, in which the territory or counties aforesaid shall be interested: *Provided however*, if the attorney-general fails to attend at any, or either of the said courts, the judges are hereby authorised, from time to time, as they may think fit, to employ some attorney to prosecute and act for the territory or county, (as the case may be) in his stead: which attorney so employed, shall for his services be paid by the attorney-general, such sum as shall be adjudged sufficient by the court, before whom the services may be rendered.

Sect. III. *Repealed December* 18, 1812.

3. Sect. IV. All accounts of a public nature, before they are allowed by any, or either of the courts aforesaid, shall be presented to

the attorney-general of the district in which the same shall have arisen, and his opinion thereon obtained in writing—and it shall be the duty of the attorney general, to be appointed for the counties of Adams, Jefferson, Wilkinson and Claiborne: to establish his usual residence at the place where the General Assembly holds its sessions; and he shall at the request of the territorial treasurer, and of the county treasurer, for the said counties, give his opinion in writing upon all cases concerning the public interest; and shall at the desire of the said treasurers, institute and prosecute to effect, before the proper courts, suits against all persons indebted to the territory, or to the said counties.

Sect. V. *Repealed November* 27, 1810.

4. Sect. VI. On all indictments for felonies, whereon a conviction shall be had, the fee of the attorney-general shall be ten dollars; and on all inferior prosecutions, upon which judgment shall be given against the defendant, the sum of five dollars; to be collected as other fees, and paid by the proper officer receiving the same, into the territorial treasury, as a part of the public revenue.

ACT of February 10, 1807. (Dig. p. 115.)

5. Sect. XXV. The attorney-general for the counties of Adams, Wilkinson, Jefferson and Claiborne, shall not be compelled to attend the county courts of the counties aforesaid: but it shall be his duty, to attend the supreme and several circuit courts established by this act.

ACT of February 27, 1809. (Stat. p. 8.)

6. Sect. IV. There shall be appointed an attorney-general in the county of Madison, who shall perform the same duties, be entitled to the same salary, and authorized to draw for it in the same manner as the attorney-general in the county of Washington.

ACT of December 21, 1809. (Stat. p. 87.)

7. Sect. I The attorney-general for the counties of Adams, Wilkinson, Jefferson and Claiborne shall attend the circuit or superior courts of the aforesaid counties, and also of all the counties adjoining the same west of Pearl river, any law to the contrary notwithstanding.

ACT of November 27, 1810. (Stat. p. 9.)

8. Sect. I. The attorney-general in and for the counties west of Pearl river, be allowed the annual compensation of eight hundred dollars for attending the superior courts of Wilkinson, Adams, Jefferson, Claiborne, Warren, Franklin and Amite counties. [*The remainder of this section repealed*, 12*th December*, 1814.]

ACT of December 18, 1811. (Stat. p. 93.)

9. Sect. XXIX. It shall be the duty of the attorney-general, for the district west of Pearl river, to attend all the courts except the county courts, which now are, or hereafter may be established whithin the said district; and that it shall be the duty of the attorney-general for Washington district, to attend in like manner all the courts which now are, or hereafter may be established within the said district.

ACT of December 18, 1812. (Stat. p. 41.)

10. Sect. XI. There shall be appointed an attorney-general for all the counties east of Pearl river, except the county of Hancock, who shall perform all the duties appertaining to that office, in the aforesaid counties. [*The remainder of this section repealed*, *Dec.* 12, 1814.]

11. Sect. XII. It shall be the duty of the attorney-general, west of Pearl river, to attend the superior courts of Hancock county.

ACT of December 24, 1812. (Stat. p. 120.)

12. Sect. V. The attorney-general for Madison county shall receive the sum of one hundred dollars per annum in full compensation for his services.

Sect. VII. This act shall be in force from and after the first day of January next, ensuing.

ACT of December 13, 1814. (Stat. p. 14)

13. Sect. I. The annual compensation of the attorney-general, east of Pearl river, be and the same is hereby fixed, at the sum of four hundred and fifty dollars, to be paid out of any monies in the treasury not otherwise appropriated.

* * *

BANK.

Bank of the Mississippi established . 1
Rules and regulations 2
How to proceed against its debtors . 3
When to commence business . . . 4
To choose directors annually . . . ib.
And President . . . . ib.
Vacancies how filled . . . . ib.
Not to collect any but its own debts by suit 5

ACT of December 23, 1809. (Stat. p. 130.)

Whereas, the establishment of a bank in this territory, would tend greatly to promote its agricultural and commercial interest:

1. Sect. I. A bank shall be established in the city of Natchez, the capital stock of which shall not exceed five hundred thousand dollars, divided into five thousand shares, of one hundred dollars each, and

that subscriptions towards constituting said stock shall, as soon as may be after the passing of this act, be opened in the said city, under the superintendance of Francis X. Martin, Ferdinand L. Claiborne, John Steele, Abner Green, Abijah Hunt, Samuel Postlethwait, Ebenezer Reese, Cowles Mead, Joseph Sessions, William B. Shields, Winthrop Sargeant, Alexander Montgomery and Lyman Harding, and shall remain open until the sum of fifty thousand dollars shall be subscribed, and the money thus subscribed shall be paid one eighth part thereof, at the time of subscribing, three eighth parts thereof as soon as the bank may be carried into operation, when the directors shall give notice thereof, by advertisement to be published in some newspaper published in the said city of Natchez, at least thirty days previously to the day on which the subscribers shall be required to pay the same; and the remainder at two equal instalments, at sixty, and one hundred and twenty days thereafter, and as soon as the sum of fifty thousand dollars shall be subscribed, the subscribers, their successors, or assigns shall be a body politic and corporate, by the name and style of the "President and Directors, and company of the Bank of the Mississippi," and shall so continue until the last day of December, one thousand eight hundred and thirty-four; and by that name shall be able and capable in law to have, purchase, receive, possess, enjoy and retain, to the use of them, and their successors, lands, tenements, hereditaments, goods, chattels and effects, of what kind, nature, or quality soever, to an amount not exceeding the sum of six hundred thousand dollars; and the same to grant, alien or dispose of at pleasure, and shall by the name aforesaid, be capable and liable in law to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any suit, action, matter or thing, depending in any court of law, or equity; and also, to have and keep a common seal, and the same to break, alter or amend at pleasure; and also to ordain, establish and put in execution such bye-laws, ordinances and regulations, not contrary to the laws of the United States, or of this territory as they may deem necessary and expedient for the good government of the said corporation, and generally, to do and execute all and singular, acts, matters and things which to them may appear necessary, or are incident to bodies corporate, subject to the rules and regulations hereinafter prescribed and declared.

2. SECT. II. The following rules and regulations, shall form and be the fundamental articles of the constitution of said corporation.

1st. Every stockholder shall be eligible as a director, and shall at all meetings of the stockholders be entitled to one vote for every share he may hold; *Provided*, That the same shall have been transferred at least ninety days before the meeting.

2d. No director shall receive any emolument for his services as director, but it shall be lawful for the president to receive such compensation as the stockholders shall, at a general meeting, assign to him.

3d. Five directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary and unavoidable absence; in either of which cases it shall be lawful for him to name a director to preside in his stead.

4th. It shall be lawful for the directors to call a meeting of the stockholders at any time when they may deem it necessary and expedient.

5th. The directors shall have power at all times to open subscriptions for stock, until the whole capital stock shall be subscribed: *Provided*, That no person shall subscribe for more than ten shares within the first ten days after the subscription shall be opened.

6th. The cashier or other officers, clerks and servants of the corporation, shall previously to entering on the duties of their offices, respectively give bond with such security, and in such form as the directors shall require, conditioned for the faithful discharge of their duties respectively.

7th. The total amount of the bills emitted by the corporation, shall never exceed three times the amount of the capital stock, actually paid in, and the amount of monies actually deposited for safe keeping; in case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities; but the corporation shall not on that account be the less liable and chargeable with such excess: such of the directors as may have been absent when the said excess was contracted or created may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the stockholders at a general meeting, which they shall have power to call for that purpose.

8th. The corporation shall not take more than six per centum per annum for, and upon its loans and discounts.

9th. The stock of the corporation shall be assignable and transferable according to such rules as may be made in that behalf by the directors.

10th. All bills and notes which may be issued by order of the corporation, signed by the president and counter-signed by the cashier, shall be binding and obligatory upon the corporation.

11th. Half yearly dividends shall be made of so much of the profits of the Bank, as shall appear to the directors advisable.

3. Sect. III If any person or persons shall become indebted to said corporation as maker or endorser of any note, bill or bond, expressly made negociable and payable at the said bank (and no bill, note or bond, shall be negociable at said bank unless it shall be so expressed in the face of such bill, note or bond) and shall delay payment thereof, it shall be lawful for the corporation after having given at least ten days previous notice thereof, to move for judgment and the award of execution against such debtor, in any court of record within this territory. *Provided nevertheless*, that if the defendant or defendants, shall appear and contest the claim, the court shall instanter, impannel a jury to try the issue, and thereon give judgment accordingly.

4. **Sect. IV.** As soon as the sum of fifty thousand dollars shall be subscribed with the superintendants, it shall be lawful for them to rent or lease a house, and fit it for the business of the Bank; to procure paper, plates, chests, books, stationery and whatever may be necessary to begin the operations of the bank; and as soon as they shall have made such progress therein, as will justify the measure, call a meeting of the stockholders in the city of Natchez, of which they shall give public notice for twenty days; and at such meeting of the stockholders they shall proceed to the election of thirteen directors, who shall continue in office until the first Monday in January, one thousand eight hundred and twelve; when there shall be a new election, and so on, in each and every year, on the same day until the dissolution of the corporation; and the directors then appointed, shall be in office for one year: immediately after each election, the directors shall meet and choose one of their own body as president. In case of death, resignation or absence of a director out of the territory, for upwards of six months, the vacancy may be supplied by a majority of the board.

ACT of January 21, 1814. (Stat. p. 31.)

8. **Sect. II.** Nothing contained in the third section of the act entitled "An act to establish a Bank in the Mississippi Territory," shall be so construed, as to authorize the summary mode of collecting of any notes, bills, and bonds, made, and executed, after the passing of this act, except it be made to appear by the certificate of the cashier of said bank, that the said notes, bills, and bonds, be the bona-fide property of the president, and directors, and company of said bank.

* * *

BASTARDY.

Pregnant women how to proceed . . 1
Justices duty 2
Proceedings in county court . . . 3
In case of judgment, reputed father liable 4
Complainant to pay cost, when, . . 5
If father and mother of bastard intermarry 6
Guardian to bastard to be appointed 7
Repealing section 8

ACT of December 13, 1811. (Stat. p. 62.)

1. **Sect. I.** When any single woman, who shall be pregnant, or delivered of a child, which by law would be deemed, and held a bastard, shall make complaint to any one, or more justices of the peace for the county where she may be so pregnant or delivered, as aforesaid, and shall accuse any one of being the father of such child, it shall be the duty of such justice or justices to issue process to the

sheriff, coroner, or any constable of such county, against the person so accused, as aforesaid, and cause him to be brought forthwith before him.

2. Sect. II. Upon his appearance, it shall be the duty of said justice or justices, to examine the said female in the presence of the man, alledged to be the father of the child, touching the charge against him, and if said justice or justices shall be of opinion, that sufficient cause appears, it shall be his, or their duty, to bind the said person, so accused, in bond with good and sufficient security, to be and appear before the next county court, to be holden for said county, and in the mean time to be of good behaviour.

3. Sect. III. The county court aforesaid, at their said next term, shall have full and complete cognizance and jurisdiction of said charge of bastardy: And the court shall cause an issue to be made up "whether the reputed father is the real father of the child, or not," which issue shall be tried by a jury: *Provided nevertheless*, That the inquiry shall not be *exparte*, but the imputed father shall have a right to appear by himself, or counsel, and controvert by all legal evidence, the charge alledged against him.

4. Sect. IV. If the issue is found against the defendant or imputed father, then he shall be condemned by the judgment of said court, to pay, not exceeding fifty dollars, at the discretion of said court, yearly, for ten years, towards the support, maintainance, and education of said child: And the said imputed father shall give bond and security for the due, and faithful payment of said sum of money, which shall be made payable to the said court, and laid out, and appropriated under their special order and direction, from time to time made, so that the same be not paid to the mother of said child; which said bond shall be, and hereby is declared to have the same force, validity, and effect, as a judgment of said court, upon which executions may issue, as often as money thereon shall become due and payable: *Provided, however*, That if said child should never be born alive, or being born, should die at any time, and that fact suggested upon the record of the county court, that then, and from that time the bond aforesaid shall be void.

5. Sect. V. If upon the trial of the issue aforesaid it should be found by the jury against the woman, or that the child imputed, is not the child of the pretended father, then the judgment of the court shall be, that he be discharged hence, and that the woman, making the complaint, shall pay all costs, occasioned thereby.

6. Sect. VI If the mother of said child, and the imputed father shall at any time after its birth intermarry, that the said child shall in all respects be deemed, and held legitimate, conformably to the maxim of the civil law, and the bond aforesaid, be void.

7. **Sect. VII.** It shall be the duty of the court to appoint a guardian or guardians to said child, to whom, upon his or her entering into good and sufficient security, for the faithful performance of his or her duty, the money shall be paid over by the court: *Provided*, That in all cases, the reputed father of the child, shall have a preference to any other person, in becoming guardian, as aforesaid.

8. **Sect. VIII.** All acts or parts of acts, coming within the purview and conflicting with the provisions of this act, shall be, and the same are hereby repealed.

BILLS OF EXCHANGE, BONDS, COTTON RECEIPTS, AND PROMISSORY NOTES.

Cotton receipts may be given, assigned, &c. 1
Duty of the holders and liability of the makers 2
Orders, how recoverable 3
Bills of Exchange 4
Damages thereon 5
Bonds, &c. Notes, &c. assignable . 6
Repealing section 7
Damages on Inland Bills 8

ACT of October 30, 1800. (Stat. p. 43.) and of March 4, 1803. (Stat. p. 24.) Revised and amended February 10, 1807. (Dig. p. 232.)

Sect. I. *Repealed December* 18, 1812.

1. **Sect. II.** All such receipts as are or shall be signed by the owner or owners of cotton gins, or by the servant or agent of any owner or owners of cotton gins, who is, or shall be usually entrusted to sign such receipts, commonly called cotton receipts; whereby such owner or owners of cotton gins, his, her, or their servant or agent, shall acknowledge to have received any quantity of cotton, the quantity of cotton mentioned in such receipt, shall be construed to be by virtue thereof due, and payable to such person or persons, of whom the same is acknowledged to have been received.

And such cotton receipts, whereby any quantity of cotton is acknowledged to have been received of such person or persons, may be assignable over in like manner as promissory notes are by the foregoing section of this law.

And the person or persons to whom such cotton receipt, whereby any quantity of cotton is acknowledged to have been received as aforesaid, is assigned or endorsed, may maintain an action against the owner or owners of any cotton gin, his, her, or their servant or agent, who signed or shall sign such cotton receipt, or any who shall or have endorsed the same, as in cases of promissory notes aforesaid, and recover damages and costs of suit.

2. **Sect. III.** All cotton receipts given by gin-holders, in which no time of payment or delivery of the cotton therein mentioned, is

expressed or limited, shall be taken and construed to be payable or deliverable within four months, from the date or delivery of such receipts: and on the non-payment or non-delivery of any cotton specified in any receipt, expressing the time of payment or delivery thereof, at the time so expressed: or on the non-payment, or non-delivery of any cotton specified in any receipt, not expressing the time of payment or delivery thereof, at the expiration of the said four months, the legal holder or holders of such cotton receipts, shall in either case after lawful demand made, be entitled to recover twenty per centum, damages, on the value of the cotton specified in such receipt; to be recovered with costs of suit: *Provided*, That if any owner of a gin shall deliver the full amount of any cotton due on any such receipts, within fifteen days after lawful demand shall have been made, by the legal holder of such cotton receipt, or by his agent. *And provided also*, That when from default of the owner, or holder of the said receipts, the necessary bagging and cordage have not been duly supplied, then in either case, such owner of a gin, shall not be liable to pay any damages whatsoever, any thing to the contrary contained in this act notwithstanding.

3. Sect. 4. When any person or persons shall, by order in writing, signed by his or their proper hand, direct the payment of any sum or sums of money, in the hands or possession of any other person or persons whatsoever, the money therein specified, shall by virtue thereof, be due and payable to such person or persons to whom the same is drawn payble, and may be put in suit against the person or persons who may draw the same, or against the person or persons on whom the same shall be drawn, (after acceptance thereof) by him or them, to whom the same shall be made payable, and recover damages: *Provided nevertheless*, That no person or persons whatsoever, shall prosecute any suit against any person or persons, who shall give such order for the money therein mentioned, before the same shall have been presented for acceptance, and notice given of the non-acceptance thereof, to the drawer; or before the same shall have first been protested for non-acceptance, and notice given thereof to the drawer before such suit shall be brought; and if any suit shall be brought on any such order, before notice and refusal to pay as aforesaid, the plaintiff or plaintiffs shall be non-suited and pay costs.

4. Sect. V. All bills of exchange hereafter drawn upon any person resident within the United States, and out of this territory, which shall be returned protested, the damages of such protesed bills, shall be fifteen per cent. on the sum drawn for; and all bills in like manner drawn upon persons resident out of the jurisdiction of the United States being protested, the damages shall be twenty per cent. on the sum mentioned in the said bills respectively; and all charges incidental thereto, with lawful interest as aforesaid, until the same be paid.

5. Sect. VI. Every bill of exchange, of the sum of twenty dollars and upwards, hereafter drawn in, or dated at, and from any place in

this territory, upon any person or persons within the said territery, and payable at a certain number of days, weeks or months, after date or sight thereof, shall in case of non-acceptance by the drawee, when presented for acceptance; or if accepted, in case of non-payment by the drawee, when due and presented for payment, be protested by a notary public, in like manner as foreign bills of exchange; and the damages on such bill shall be ten per cent. on the sum drawn for, and shall in every other respect, be regulated and governed by the same laws, customs and usages, which regulate and govern foreign bills of exchange: *Provided*, That such protest shall for want or in default of a notary public, be made by any justice of the peace, whose act in such case, shall have the same effect as if done by a notary public.

ACT of December 18, 1812. (Stat. p. 51.)

6. Sect. I. All bonds, obligations, bills single, promissory notes, and all other writings for the payment of money, or any other thing, shall, and may be hereafter assigned by indorsement, whether the same be made payable to the order, or assigns of the obligee or payee, or not; and that the assignee shall and may sue in his own name, and maintain any action which the obligee or payee, might or could have sued or maintained thereon previous to assignment; and that in all actions to be commenced and sued upon any such assigned bond, obligation, bill simple, promissory note, or other writing as aforesaid, the defendant shall be allowed the benefit of all payments, discounts, and sets off, made, had, or possessed against the same, previous to notice of the assignment, any law, usage or custom, in any wise, to the contrary notwithstanding, in the same manner as if the same had been sued and prosecuted by the obligee, or payee therein, and the person or persons to whom such instruments so payable is assigned, may maintain an action against the person or persons who shall have indorsed the same, as in cases of inland bills of exchange.

7. Sect. II. An act entitled "An act to enable assignees of bonds, bills or notes, to bring actions for the recovery of the same, in their own names, and for other purposes," and also such parts of an act, entitled "An act, to render promissory notes, and cotton receipts negociable, and for other purposes," as in any wise concerns promissory notes be, and the same are hereby repealed.

8. Sect. V. Hereafter on inland bills of exchange on persons without the limits of this territory, the damages on protest for non-payment, shall be ten per cent, besides legal interest, from and after the date of protest, any thing contained in the fifth section of the act to render promissory notes and cotton receipts negociable and for other purposes, to the contrary notwithstanding.

CENSUS.

In what manner to be taken . . . 1
Duty of assessors 2
Fine for neglect of persons in making returns 3
Penalty for false return 4
Form for assessor 5
His oath and return 6
Penalty for neglect . . . . ib.
His compensation 7

ACT of Dember 9, 1815. (Stat. p. 32.)

1. SECT. I. It shall be the duty of all the inhabitants of this territory, being heads of families, or persons not belonging to any particular family, to render a true and faithful estimate to the assessors of taxes in their respective counties, such estimate from heads of white families to be on oath, and contain an enumeration of the whole number of inhabitants belonging to his or her family, making a correct distinction between the number of white males over twenty-one years of age; white males under twenty-one years of age; white females over twenty-one years; white females under twenty-one years; the total of free people of colour, Indians not taxed excepted; and the total of slaves.

2. SECT. II. It shall be the duty of the assessors of taxes in each and every county within this territory, to claim and receive of all heads of families and other persons as described in the preceding section the estimate which they are therein required to furnish. The oath required of the heads of the families as aforesaid shall be administered by the said assessors in each respective county, and in form as follows, to wit: "You do solemnly swear (or affirm as the case may be) that the estimate which you now render, contains a true and faithful enumeation of the number of inhabitants of which your family consists, with the proper distinction of sexes, age and colour, so help you God."

3. SECT. III. If any person shall fail to make a return of him or herself and family, or any part thereof, being thereunto requested by the said assessors, or shall knowingly make a false or improper return, he or she shall be fined in the sum of fifty dollars, to be recovered before any justice of the peace or of the quorum of the county, one half thereof to the use of the informer and the other half to be paid into the county treasury.

4. SECT. IV. In addition to the penalty prescribed in the preceding section, if any person shall knowingly make a false or incorrect return of his or her family as directed by this act, he or she shall be liable to all the pains and penalties provided by law against perjury.

5. Sect. V. The following form shall be adopted and used by each and every assessor in this territory, for the classification of the inhabitants thereof.

Names of the heads of Families.	White males over twenty-one years.	White males under twenty one years.	White females over twenty-one years.	White females under twenty-one years.	Total of white Inhabitants.	Total of free people of Colour.	Total of Slaves.	Total of Inhabitants.

6. Sect. VI. Each and every assessor in this territory, shall, before he enters on the duties of his office, in addition to the oath required of him by law as assessor, take and subscribe before some person suthorised to administer the same, an oath in the following form, to wit: "I A. B. do solemnly swear (or affirm, as the case may be) that I will take the census of the county of according to the true intent and meaning of "An act directing the taking the census of the Mississippi territory," to the best of my knowledge; so help me God;" which said oath subscribed and sworn to, shall be transmitted, together with a copy of said enumeration agreeably to the foregoing form, to the executive of this territory: and also another copy of the enumeration in form as aforesaid to the speaker of the house of representatives of this territory, on or before the first day of the next session of the general assembly. And each and every assessor failing to comply with the requisitions of this act shall be fined in the sum of four hundred dollars, recoverable before any court of competent jurisdiction, one half thereof to the use of the informer and the other half to be paid into the territorial treasury.

7. Sect. VII. Each and every assessor in this territory shall be allowed as a compensation for taking the census in his county one dollar for every hundred inhabitants, except in the county of Monroe, in which the ascessor shall be allowed the sum of two dollars for every hundred inhabitants; and the auditor is hereby required to issue his

warrant on the territorial treasury in favor of such assessor for the same, upon the certificate of the governor of this territory, that a copy of such census is delivered to him, and the total of inhabitants therein contained, being produced to the auditor.

CONTAGIOUS DISEASES.

Small Pox, penalty for importing and spreading 1
Governor to prevent the spreading of contagions 2
Persons wishing to be inoculated how to proceed 3
Patients not to go abroad without license 4
Fines how to be recovered and appropriated 5
Act, when to commence 6

ACT of May 13, 1803, revised and amended by the act of February 10, 1807. (Dig. p. 375.)

1. Sect. I. If any person or persons, whatever, shall wilfully and designedly presume to import or bring into the territory, from any country or place whatever, the small-pox, or any variolus or infectious matter of the said disease, for the purpose, or with a design to spread the same by inoculation, or otherwise ; or shall inoculate, or procure inoculation for the small-pox, after such disease may have been introduced ; except under such regulations and restrictions as shall herein after be named : he or she so offending, shall forfeit and pay a sum, not exceeding two thousand dollars ; and be imprisoned a term, not exceeding twelve months, for every offence so committed.

2. Sect. II. The governor is hereby authorised, on knowing from his own observation, or by information being given to him, by any physician, that the plague, yellow fever, small-pox, or other contagious disorder, has been introduced into a neighboring country, or found admittance within this territory : or on board any boat or vessel, at or near the shores of the same : to take such measures to prevent a communication of the infection, and for the aid and comfort of the sick when within the said territory, as he shall deem meet. And all expences incurred in the prosecution of this humane intention, shall by warrant of the governor, be paid out of the monies of the territorial treasury, not otherwise appropriated : but in all cases, the said expences shall be reimbursed by the person or persons for whom such provisions shall have been made ; they being of ability to pay the same.

3. Sect. III. Whereas in certain cases, inoculation for the small-pox, may not only be a prudent, but a necessary measure for securing those who are, or may be unavoidably exposed to the danger of taking

the disease in the natural way: and for this reason it is judged expedient to tolerate the same, under certain reasonable regulations and restrictions. *It is provided*, therefore, that if any person or persons who may wish to be inoculated, shall petition the governor to that effect, he may appoint him or them a place within this territory, that will not endanger the health of the citizens of the same where the petitioner or petitioners shall resort for the purpose of being inoculated. And should any master or mistress of a family think him or herself, his or her family in danger of catching the small-pox in the natural way, such person shall give like notice to the governor: and if he shall deem it prudent and proper, and not dangerous to the health and safety of the people of this territory, for such person or family to be inoculated, he may admit of the same or otherwise, as to him shall seem expedient.

4. Sect. IV. No patient in the small-pox, shall, until after having obtained a certificate from the attending physician, or other person, qualified to give such certificate, of his, her, or their recovery; and of their being perfectly clean in their person and clothes, remove from the place where he, she or they shall have had the small-pox, to go abroad in the company of other people, who have not had the disease; or go into any public road or highway, where travellers usually pass, without retiring out of the same; or giving notice, on the approach of any passenger; under the penalty of forfeiting and paying for every such offence, the sum of one hundred dollars: and if a servant or slave, to be paid by his or her master or mistress.

5. Sect. V. All monies forfeited under this act, may be sued for in any court of record within this territory; having jurisdiction of the same. And the monies so recovered, shall be appropriated, the one half to the informer, and the other half paid into the treasury of this territory.

6. Sect. VI. This law shall be in force, from, and after the passage thereof.

CONVEYANCES AND REAL ESTATE.

Conveyances how to be admitted to record 1
Of Feme Covert 2
Of absent persons 3
In what time to be recorded . . . 4
Proof of hand writing 5
How to be recorded 6
Clerk to give receipt 7
Penalty for neglect of clerk . . . 8
Copy of record, evidence 9
Clerks to give bond 10
To give receipt for books, &c. . . . 11
In case of death or removal of Clerk 12
No record to be removed by subpæna 13
Grant good without attornment of tenant 14

Warranty by tenant for life void . . 15
What words shall make a covenant . 16
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Conveyances when to be recorded . . 18
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Conveyances how proved and recorded in and out of the Territory . . . 19
In what time 20
What words shall convey a fee . . . 21
Contingent remainder 22
Livery of seizin not necessary . . . 23
Curtesy and Dower in trust estates . 24
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Executors, &c. to make conveyances 27

ACT of March 4, 1803, revised and amended by act of February 10, 1807. (Dig. 243.)

1. SECT I. If any deed or conveyance of lands, tenements, or hereditaments, lying and being in this territory, heretofore[*] made and executed, and not already acknowledged or proved, according to law, or herafter to be made and executed, shall be acknowledged by the party or parties, who shall have executed it: or be proved by one or more of the subscribing witnesses to it, that such party or parties, signed, sealed and delivered the same, as his, her, or their voluntary act and deed, before one of the judges of the superior court of this territory; or one of the justices of any county court of that county, in which the lands, tenements, and hereditaments are situated; and if a certificate of such acknowledgment or proof, shall be written upon, or under the said deed, or conveyance; and be signed by the person before whom it was made; then every such deed or conveyance so acknowledged, or proved and certified, shall be received in evidence in any court of this territory, as if the same were then and there produced and proved.

SECT. II. No conveyance of lands, tenements or hereditaments, lying and being in this territory, which has been made and executed, and not already acknowledged or proved, according to law; or which shall be made and executed, shall be recorded in any clerk's office in this territory; unless the execution of the same shall have first been acknowledged, or proved and certified, in the manner herein directed.

2. SECT. III. No estate of a *feme covert* in any lands, tenements, or hereditaments, lying and being in this territory, shall hereafter pass by her deed or conveyance, without a previous acknowledgment made by her on a private examination, apart from her husband, before one of the territorial judges, or one of the justices of the county court, that she signed, sealed and delivered the same, as her voluntary act and deed, freely, without any fear, threats, or compulsion of her husband; and a certificate thereof written on or under the said deed, or conveyance: and signed by the officer, before whom it was made; and further, that every deed or conveyance so executed and acknowledged, by a *feme covert*, and certified as aforesaid, shall release and bar her right of dower, and be good and effectual to convey the lands,

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[*] That is, before the 4th of March, 1803, when the act was originally passed.

tenements, and hereditaments thereby intended to be conveyed; *Provided*, That this clause shall not be construed to enable any *feme covert*, under the age of twenty-one years, to convey lands, tenements, or hereditaments or any right of dower, interest or estate therein.

3. Sect. IV. If the party who shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this territory, or the witness thereto, reside not in this territory, but in some other territory or state in the union; then the said acknowledgment or proof, made before, and certified by the chief justice of the United States, or any associate justice of the supreme court of the United States, or a district judge of the same; or any judge or justice of the supreme or superior court of any territory or state in the union, shall be as good and effectual as if it had been made before, and certified by one of the judges of the supreme court of this territory.

Sect. V. If the party who shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this territory, or the witnesses thereto, reside in a foreign kingdom, state, nation or colony, then the said acknowledgment, or proof, made before any court of law, or mayor, or other chief magistrate of any city, borough or corporation of the said foreign kingdom, state, nation or colony, in which the said party or witnesses reside, certified by the said court, mayor or chief magistrate, in the manner such acts are usually authenticated by them, or him, shall be as good and effectual as if it had been made before and certified by one of the judges of the supreme court of this territory.

Sect. VI. The two preceding sections of this act shall be construed to extend to, and comprehend acknowledgments of deeds or conveyances, which shall be made by *femes covert*, who reside out of this territory, and in any other territory, or state in the union; or in any foreign kingdom, state, nation, or colony.

4. Sect. VII. Every deed or conveyance of lands, tenements, or hereditaments, lying and being in this territory, which shall be made and executed, from and after the passing of this act, shall be void and of no effect, against a subsequent *bona fide* purchaser or mortgagee, for a valuable consideration, not having notice thereof; unless such deed or conveyance shall be acknowledged, or proved and certified, as by this act is directed, and be lodged (within twelve calendar months) after the time of signing, sealing and delivering the same, with the clerk of the county court of the county in which the said lands, tenements, or hereditaments are situated; to be recorded by the said clerk: *Provided nevertheless*, That such deed or conveyance, shall, as between the parties and their heirs, be valid and operative.

5. Sect. VIII. If the grantor or witnesses of any such deed or conveyance, be dead, or cannot be obtained, it shall be lawful for any of

the officers herein before mentioned, as the case may require, to take under oath or affirmation, the examination of any person or persons, to prove the hand writing of such deceased witness or witnesses; or where such proof cannot be had, then to prove the hand writing of such grantor or grantors, which shall be certified on, or under such deed or conveyance, and signed by the officer, before whom such proof shall have been made; and such deed or conveyance, so proved and certified, shall be received in evidence, and be recorded by the clerk of the county court of the county, in which the said lands, tenements, or hereditaments are situated; in the same manner as other deeds or conveyances are directed by this act.

6. SECT. IX. The clerk of the county court shall record, in large well bound books, of good paper, to be provided for that purpose, and carefully preserve, all deeds and conveyances of lands, tenements and hereditaments, lying and being in the said county; acknowledged or proved, and certified to have been acknowledged or proved, in manner aforesaid; which shall be delivered to him to be recorded; to which books every person shall have access, at proper seasons; and be entitled to transcript from the same, on paying the fees allowed by law.

SECT. X. It shall be the duty of the clerk to record in the said book, without delay, every such deed or conveyance, with the acknowledgments, proofs and certificates, written on or under the same: and the plots of surveys, schedules and other papers therein referred to, and annexed by entering them, word for word, in a fair hand, and mentioning in the margin, or at the foot of such record, the day of the month, and the year, when the said deed or conveyance, was delivered to him, or brought to his office, to be recorded.

7. SECT. XI. The said clerk shall give a receipt to the person who shall bring any such deed or conveyance, mentioning therein the time when it was delivered to him, or brought to his office to be recorded; the date, the names of the parties to it, and the place where the lands, tenements, and hereditaments, therein specified, are situated; that the said clerk shall certify on or under such deed or conveyance, the day of the month, and year when he received it, and the name or number of the book, and page or pages in which it is recorded: and shall when recorded, deliver it to the party entitled to it, or his order.

8. SECT. XII. If any clerk shall neglect, or refuse to perform any service or duty, required of him by this act, he shall, for every neglect, or refusal, forfeit and pay two hundred dollars: to be recovered with costs, by action of debt; to be brought in the name of the county treasurer, to, and for the use of the county: and shall also be liable for all damages which the party aggrieved may have sustained by reason of the non-performance of such service or duty.

9. SECT. XIII. If the original deed or conveyance be lost or mislaid, or be destroyed by time or accident, and not in the parties power

to produce; the record of such deed, or conveyance, and the transcript of such record, certified to be a true transcript by the said clerk, in whose office the record is kept, shall be received in evidence in any court in this territory; and be as good and effectual, and available in law, as if the original deed or conveyance were then and there produced and proved.

10. **Sect. XIV.** Every person who has received the appointment of clerk of any county of this territory, and now* acts as such, shall, on or before the first day of June next, (and every person who shall hereafter be appointed clerk of any county court of this territory, shall, before he enters upon the duties of his office,) give bond to the governor of this territory, and to his successors in office, with two sufficient freeholders in the county, to be approved of by the said court, or any three justices thereof, in the sum of three thousand dollars; with condition for the delivery of the said record, books, and other writings, entire and undefaced to his successor in office; and for the faithful performance of the duties required by this act: which bond the said court or justices shall deliver to the secretary of this territory, to be by him filed in his office; and if such clerk shall refuse or neglect to give bond as aforesaid, on or before the first day of June next; or he who may hereafter be appointed, for the space of thirty days after having received notice of his appointment, he shall be removed from office.

11. **Sect. XV.** Every person who shall be appointed to the clerkship of any county court, shall, on receiving the book or books, in which such deeds and conveyances are recorded, sign, and acknowledge a receipt for the same; before one of the justices of the said court: whose duty it shall be to deliver the said receipt to the secretary of the territory: to be by him filed in his office.

12. **Sect. 16.** Upon the death, removal, or resignation of any clerk, of any county court, the seals, minutes, papers, deeds, writings, documents, records and books of, or belonging to such office, shall be delivered to his successor in office, on the oath or affirmation of the preceding clerk: or, in case of his death, on the oath or affirmation of his executors, or administrators. And if such clerk, his executors, or administrators, shall refuse or neglect to deliver the same on oath or affirmation, as aforesaid, being demanded by his successor in office; then every such person shall forfeit and pay five hundred dollars: to be recovered with costs, by action of debt, in the name of the county treasurer, for the use of the county.

13. **Sect. XVII.** No record shall be removed by writ of subpœna, or otherwise; before any court out of the county, in which such record is kept, when a transcript thereof may be given in evidence.

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*That is, on the third day of March 1803.

14. Sect. XVIII. Every grant, or conveyance of messuages, lands, tenements and hereditaments; or of rent, or of reversion or remainder of messuages, lands, tenements, and hereditaments, shall be good and effectual without attornment of the tenant; but no tenant, who, before notice of such grant or conveyance, shall have paid the rent to the grantor, shall be prejudiced, or suffer any damage by such payment.

15. Sect. XIX. All warranties, by any tenant for life, shall be void against those in remainder or reversion.

16. Sect. XX. In all deeds, to be recorded in pursuance of this act, whereby any estate of inheritance in fee simple, shall hereafter be limited to the grantor or his heirs, the words, grant, bargain, sell, shall be adjudged an express covenant to the grantee, his heirs and assigns, to wit:—that the grantor was seized of an indefeasible estate, in fee simple; freed from incumbrances, done, or suffered from the grantor, (except the rents and services that may be reserved) as also for quiet enjoyment against the grantor, his heirs and assigns; unless limited in express words contained in such deed; and that the grantee, his heirs, executors, administrators and assigns, may in any action, assign breaches, as if such covenants were expressly inserted. *Provided always*, That this law shall not extend to leases at rack-rent, or to leases, not exceeding one and twenty years; where the actual possession goes with the lease.

17. Sect. XXII. Any mortgagee of any real or personal estates in this territory, having received full satisfaction and payment, of all such sum or sums of money, as are really due to him by such mortgage, shall, at the request of the mortgager, enter satisfaction upon the margin of the record of such mortgage, recorded in the said office; which shall forever thereafter, discharge, defeat and release the same; and shall likewise bar all actions brought, or to be brought thereupon.

And if such mortgagee, by himself or his attorney, shall not within three months after request and tender made for his reasonable charges repair to the said office, and there make such acknowledgment, as aforesaid, he, or she neglecting so to do, shall, for every such offence, forfeit and pay unto the party or parties aggrieved, any sum, not exceeding the mortgage money; to be recovered in any court of record by bill, plaint, or information.

Sect XXIV. *Repealed December* 22, 1812.

ACT of December 7, 1811. (Stat. p. 13.)

18. Sect. I. From and after the passing of this act, any deed or conveyance of lands, tenements or hereditaments, lying and being in this territory, which shall be made and executed after the passing of this act, shall be void and of no effect, against a subsequent bona fide

purchaser or mortgagee for a valuable consideration not having notice thereof, unless such deed or conveyance shall be acknowledged or proved and certified, as by the act to which this is an amendment, is directed, and be lodged (within three calendar months) after the time of signing, sealing and delivering the same with the clerk of the county court of the county in which the said lands, tenements or hereditaments are situated, to be recorded by the said clerk: *Provided nevertheless*, That such deed or conveyance shall, as between the parties and their heirs, be valid and operative.

Sect. II. The seventeenth section of the act to which this is an amendment be, and the same is hereby repealed.

ACT of Dember 22, 1812. (Stat. p. 84.)

19. Sect. I. Any deed or conveyance of real estate may be admitted to record, if acknowledged by the maker or makers thereof, or be proved by any one of the subscribing witnesses thereto, before any one of the superior judges or justice of the quorum of any county court in this territory, and the following shall be the form of the certificate of acknowledgment, or probate of all deeds, to wit: Mississippi Territory, County, ss. personally appeared before me Esquire, a judge of the said territory, or justice of the quorum of said county, (as the case may be) the above named A. B. who acknowledged that he signed, sealed, and delivered, the foregoing deed, on the day and year therein mentioned, to the aforesaid C. D. Given under my hand and seal, this day of " and in case of probate, by a subscribing witness, thus: (as above to the end of the description of the judge or justice) the above named E. F. one of the subscribing witnesses to the foregoing deed, who being first duly sworn, deposeth and saith, that he saw the above named A. B. whose name is subscribed thereto, sign, seal, and deliver the same to the said C. D. that he this deponent, subscribed his name as a witness thereto, in the presence of the said A. B. and that he saw the other subscribing witness (or witnesses, naming them, as the case may be) sign the same, in the presence of the said A. B. and in the presence of each other, on the day and year therein named. Given under my hand and seal, &c.

Sect. II. Any deed of real estate lying in this territory, made or executed by any person or persons residing without the limits of the same, may be admitted to record in the clerk's office, of the county where such estate may lie, if acknowledged or proved in the manner required by this act, before any judge or justice of any court, or notary public, of the state or territory, in which the maker of such deed may be: *Provided*, That the certificate of such acknowledgment or probate, shall be accompanied by a certificate of the clerk of the court, to which such judge or justice may belong, that such judge or justice is of such court, and that due faith and credit is to be given to any act done by them, when acting in their official character, and the seal of office, if any there be, shall be affixed to such certificate.

SECT. III. Any certificate of probate or acknowledgment of any such deed, shall be good and effectual, if it contain the substance, whether it be in the form or not, of that set forth in the first section of this act.

20. SECT. IV. So much of the seventh section of the act, entitled "An act, respecting conveyances," as allows twelve calendar months, after the making of the deeds therein mentioned, to deposit the same in the clerk's office, to be recorded, be and the same is hereby repealed, and that such deeds shall hereafter be so deposited for record, within three calendar months, with the same effect, and consequences as is provided in the said recited act.

21. SECT. V. Every estate in land, which shall be hereafter granted, conveyed, or devised, although words heretofore necessary to transfer an estate of inheritance, be not added, shall be deemed a fee-simple, if a less estate be not limited by express words.

SECT. VI. The twenty-fourth section of the act, entitled "An act, respecting conveyances, be and the same is hereby repealed.

22. SECT. VII. Where an estate hath been, or shall be by any conveyance limited in remainder to the son, or daughter, or to the use of the son or daughter of any person to be begotten, such son or daughter born after the decease of his, or her father, shall take the estate in the same manner, as if he or she had been born in the life time of the father, although, no estate shall have been conveyed to support the contingent remainder after his death.

23. SECT. VIII. In all cases by deed of bargain, and sale, or by deeds of lease, and release, or by covenant to stand seized to use, or by deed operating by way of covenant, to stand seized to use, the possession of the bargainor, releasor, or covenantor, shall be deemed heretofore to have been, and hereafter to be transferred to the bargainee, releasee, or person entitled to the use for the estate, or interest which such person hath, or shall have in the use, as perfectly as if such bargainee, releasee, or person entitled to the use, had been enfeoffed with livery of seizen of the land intended to be conveyed by the said deed or covenant.

24. SECT. IX. Where any person to whose use, or in trust for whose benefit, another is, or shall be seized of lands, tenements, or hereditaments, hath, or shall have such inheritance in the use, or trust as that if it had been a legal right, the husband, or wife of such person would thereof have been entitled to courtesy, or dower, such husband, or wife shall have, and hold, and may by the remedy proper

in similar cases, recover courtesy, or dower of such lands, tenements or hereditaments.

25. Sect. X. Every estate in lands, or slaves, which now is or shall hereafter be created an estate in fee-tail, shall from henceforth be an estate in fee-simple, and the same shall be discharged of the conditions annexed thereto by the common law, restraining alienations before the donee shall have issue, so that the donee, or person in whom the conditional fee is vested, or shall vest, shall have the same power over the said estates, as if they were pure, and absolute fees : *Provided*, That any person may make a conveyance, or demise of lands, to a succession of donees, then living, and the heir or heirs of the body of the remainder-man and default thereof, to the right heirs of the donor in fee-simple.

26. Sect. XI. It shall and may be lawful in such cases, where deeds have been recorded, and the feme covert hath not relinquished her right of dower in the same, for her to relinquish her right of the lands so deeded before any judge, or justice of the quorum of this territory, or any judge, or justice of any court, or notary public, of any other state, or territory, and such officer having previously examined her as required by law, shall certify the same under his hand, which certificate shall be recorded in the court where the deed, or deeds may have been recorded, which shall be deemed sufficient.

ACT of December 24, 1812. (Stat. p. 146.)

27. Sect. I. Where any person owning lands or tenements, shall sell the same, and enter into bond or obligation to make titles thereto, and shall depart this life without having made titles, that then, and in that case, the person to whom such bond or obligation was given, their executors or administrators may petition the orphan's court, of the county where probate of the will of such deceased person was taken, or letters of administration granted, to compel the executors or administrators to make titles agreeable to the bond, or obligation given by the decedant, and it shall be the duty of such court, to cause their clerk or register, to cause notice of such petition to be published in some newspaper in this Territory, once a month for at least three months, when the court may, if they find that the said contract was fairly made, order the executor or administrator to make titles as such, to the lands or tenements sold by their testator, or intestate ; and any executor or administrator refusing to comply with such order, may by such court be imprisoned for the contempt, until they will comply with the order of such court : *Provided*, That any person dissatisfied with the sentence or order of the court on any petition as aforesaid, may take their appeal to the superior court, as in other testamentary cases.

COTTON GINS.

Near towns, seed to be kept enclosed 1
Holders not to suffer seed to fall in water courses 2
To be enclosed 3
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ACT of March 3, 1809. (Stat. p. 12.)

SECT. I. *Repealed November* 27, 1810.

1. SECT. II. Every owner or possessor of any Gin erected in, or within one quarter of a mile of any city, town or village, are directed and required to enclose, remove or destroy all the cotton seed which falls from said gin, so as to prevent the putrefaction thereof; and every person so neglecting, after having five days previous notice thereof, shall forfeit and pay, for the use of the territory, twenty dollars, to be recovered before any justice of the peace, for every day he shall thus neglect to remove the cotton seed as aforesaid.

2. SECT. III. Every owner or holder of any cotton gin within this territory, is hereby restrained from throwing or letting the cotton seed fall from their gins into any stream of water or water-course whatever, except the Mississippi, Tombigbee, Alabama, Amite Rivers, and the waters of Bayou Sara ; and every person or persons failing to comply with the requisitions of this section, shall forfeit and pay the sum of two hundred dollars, recoverable before any court, having jurisdiction thereof, one moiety to the use of the person suing for the same, and the other to the person or persons injured.

ACT of November 27, 1810. (Stat. p. 7.)

3. SECT. I. Every gin holder within this territory shall enclose his, her, or their cotton gin, with a good and sufficient fence, five feet high, and so close that no hog of any size can get through the same ; and every such gin shall be enclosed so as to include all the cotton seed which may fall from, or in any wise appertain to said gin ; and every person or persons failing to comply with the requisitions of this act, shall forfeit and pay the sum of twenty dollars, for every day they shall neglect or fail so to comply ; to be sued for and recovered by the party injured before any justice of the peace, and applied to their own use : *Provided*, That nothing in this act contained shall prevent any person or persons from recovering any special damages he, she, or they may sustain, in consequence of any gin holder negligently keeping his, her, or their gin.

4. SECT. II. The first section of the before recited act, be, and the same is hereby repealed.

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PROCLAMATION:

BY WINTHROP SARGENT, GOVERNOR OF THE MISSISSIPPI TERRITORY:

To all persons who shall see these presents, Greeting:

1. WHEREAS it has been directed by the sovereign authority of the United States, that for the due execution of process civil and criminal within this territory, the governor shall make proper divisions thereof, and proceed from time to time as circumstances require to lay out the same into counties and townships, subject to future alteration as may be directed—and it appearing to me necessary for the purposes above mentioned, that two counties should be erected and laid out: I do ordain and order by these letters made patent, that all and singular the lands lying and being within the boundaries of the Mississippi Territory (as described in the third section of the law of the United States, bearing date April the seventh, one thousand seven hundred and ninety-eight, for establishing this government) should constitute two counties—the division of which shall be a line, commencing at the mouth of Fairchild's creek, and running direct to the most southern part of Ellicot'sville—thence easterly along the dividing ridge of the waters of Cole's and Sandy Creeks, so far as the present settlements extend, and thence by a due east line to the territorial boundary—the southern or lower division of which is named, and hereafter to be called the county of Adams, and the northern or upper division, the county of Pickering—And unto the said counties of Adams and Pickering, are hereby granted all and singular the jurisdiction, rights, liberties, privileges and immunities whatsoever, to a county belonging and appertaining, and which any other county that may hereafter be erected and laid off, shall or ought to enjoy, conformably to the laws and ordinances of the United States and of this Territory.

Governor's Proclamation, June 4, 1800. (Dig. p. 3.)

PROCLAMATION:

BY WINTHROP SARGENT, GOVERNOR OF THE MISSISSIPPI TERRITORY:

To all persons who shall see these presents, Greeting:

2. WHEREAS it has been directed by the sovereign authority of the United States, that for the due execution of process civil and criminal, within this territory, the governor shall make proper divisions thereof, and from time to time as circumstances require, lay out the same into counties and townships, subject to future alteration as may be directed; and it appearing to me that the divisions already

made, cannot extend to the inhabitants upon the Tombigbee and other eastern settlements, equal administration of justice; I have thought proper therefore, to erect a new county, and by these letters made patent, do ordain and order, that all and singular the lands lying and being within the following, viz. the territorial boundaries upon the north, east and south, and the Pearl river on the west, shall constitute the same, to be named and hereafter to be called the county of Washington.—And unto the said county of Washington, is hereby granted all and singular the jurisdictions, rights, liberties, privileges and immunities to a county belonging and appertaining, and which any other county that is or may hereafter be erected and laid off, shall or ought to enjoy, conformably to the laws and ordinances of the United States, and of this Territory.

ACT of January 11, 1802. (Dig. p. 4.)

3. Sect. I. From and after the passing of this act, the county heretofore known by the name of Pickering, shall be called Jefferson county.

ACT of January 27, 1802. (Stat. p. 34.)

4. Sect. I. The said county of Jefferson shall be divided as follows to wit: beginning on the river Mississippi at the mouth of the Petty gulph creek, thence running up the main branch of said creek four miles, or to its source, should that not exceed four miles; thence by a line to be drawn due east, to the eastern territorial line, and all that tract of country, north of the above mentioned creek, an east line, south of the northern boundary of said territory, and east of the Mississippi river, shall compose a county which shall be called Claiborne.

Sect. II. In order to ascertain the dividing line of said counties two commissioners and two surveyors shall be appointed by the justices of the county court of each county, that is to say, one commissioner and one surveyor in Jefferson county, and one commissioner and one surveyor in Claiborne county, which commissioners and surveyors so appointed, shall so soon as may be, after this appointment, proceed to run out and mark the said dividing line, as far as the Indian boundary, and make return thereof in writing, to their next county courts, respectively, after they shall have performed the said services, which return shall be recorded in the clerk's office.

ACT of January 27, 1802. (Stat. p. 33.)

5. Sect. I. Nathaniel Christmas, John Brewer, John Collier, Frs. Boykin and Samuel Mims, be appointed commissioners, any three of whom so appointed, are hereby authorised and required to fix on the most central and convenient place in a settled part of the said county for the permanent seat of justice for said county of Washington, and

to contract for, and receive titles to two acres of land for the purpose, of erecting thereon, a court-house, jail, pillory and stocks, for the use of said county.

Sect. II. The said commissioners, or any three of them, shall have power to contract for, direct and superintend, the building of a strong and sufficient jail of logs; and a court-house of such dimensions as they shall agree upon: *Provided*, That the said commissioners, or any three of them, shall agree upon a place for the said buildings, and advertise the same at least thirty days, at three of the most public places in the county; and shall contract for the erection thereof with the lowest bidder, who shall enter into bond with sufficient security for the performance of his contract.

ACT of January 27, 1802. (Stat. p. 36.)

6. Sect. I. William Erwin, Thomas Green, William Moss, Jacob Stampley and David Greenleaf, be, and they are hereby appointed commissioners, and vested with full power and authority, to contract for, and receive titles to two acres of land from the executors of David Odam, deceased, or other proprietors of lands at, or near Hunt's store, on the middle fork of Cole's creek, for the use of the county of Jefferson, on which to erect a court-house, jail, pillory and stocks, and the said place is hereby appointed and fixed upon for the above purpose.

Sect. III. The said commissioners, or any three of them, shall have power to contract for, direct and superintend the building of a strong and sufficient jail of logs, and a court-house of such dimensions as they shall agree on, upon the place aforesaid: *Provided*, That the said commissioners shall agree on a place for the buildings, and advertise the same at least thirty days, at three of the most public places in the county; and shall contract for the erection thereof with the lowest bidder, who shall enter into bond and sufficient security, for the performance of the contract.

ACT of January 30, 1802. (Stat. p. 49.)

7. Sect. I. The county of Adams shall be divided as follows, to wit: beginning on the river Mississippi at the mouth of Homochitto river, thence running up the said Homochitto river to Richard's ferry, thence by a line running due east to the western boundary of Washington county; and all that tract of country south of the above described boundary, to the line of demarkation, shall compose a county which shall be called Wilkinson.

Sect. II. When it shall be necessary to ascertain and mark the dividing line between the two counties from the said ferry, two commissioners and two surveyors shall be appointed by the justices of the county courts of each county; that is to say, one commissioner and one surveyor in Adams county, and one commissioner and one surveyor in Wilkinson county; which commissioners, and which surveyors so appointed, shall, so soon as may be after their appointment, proceed to run out and mark the said dividing line, as far as the Indian boundary, and make return thereof in writing to their next county courts respectively after they shall have performed the said services; which return shall be recorded in the clerk's office in each of the said courts.

ACT of January 30, 1802. (Stat. p. 56.)

8. SECT. I. The boundary line between the counties of Adams and Jefferson shall commence at the mouth of Fairchild's creek on the Mississippi river, and run a direct course from thence to the south end of George Sulcer's house, thence along the southern boundary of Ellicottville to the southeast corner of said town, and thence by a due east line to the Indian boundary.

SECT. II. At the next county courts to be held for said counties, the courts shall proceed to appoint one commissioner and one surveyor for each county, who shall attend at the time and place appointed by the said courts, to survey and run out said boundary line; which commissioners and surveyors shall receive the sum of two dollars per day, for every day they shall be employed in surveying and running said line, and the sum of one dollar per day for each marker, provided that not more than one marker shall be employed by each commissioner, to be paid out of the county treasuries.

SECT. III. Whenever it may be necessary to extend the said dividing line, it shall be done in the manner directed in the second section of this act.

SECT. IV. As soon as the said line shall be completed it shall be the duty of each of said surveyors to return a copy of their proceedings to the clerks of their counties respectively, who shall enter the same on record in the clerk's office.

ACT of March 12, 1803. (Stat. p. 59.)

9. SECT. I. From and after the passing of this act, the boundary line between the counties of Jefferson and Claiborne shall be as follows, to wit: beginning on the bank of the river Mississippi at the lower end of the Petit-Gulph Hills, running thence a direct course to the northernmost part of the tract of land now occupied by Robert Trimble, on the waters of Tabor's fork of Bayou Pierre, continuing the same course until it shall intersect the road going from Henry Green's plantation to the Grindstone ford, and thence due east to the territorial line; and that the seat of justice for the county of Claiborne aforesaid be, and the same is hereby established at the place commonly called Gibson's landing, on the south fork or the Bayou Pierre.

10. Sect. II. William Neely, Thomas White, Grorge Wilson Humphrys, Daniel Burnet and John M'Caleb be, and they are hereby appointed commissioners, a majority of whom are hereby authorised and empowered to procure and receive titles in the name of the justices of the county court of the said county of Claiborne and their successors, to and for the use of the said county, for two acres of land at the aforesaid landing of Samuel Gibson from the proprietor thereof.

11. Sect. III. The said commissioners be, and they are authorised and required to contract without delay, with some person properly qualified, to erect thereon a court-house, jail, stocks, pillory and whipping-post in manner and form as directed in the act entitled "an act to divide Jefferson county and for other purposes therein mentioned, passed the 27th day of January, 1802," as speedily as the nature of the work will admit, taking sufficient security from the person contracting for the due fulfilment of his contract, within the time limited.

12. Sect. VI. The justices of the county court of the county aforesaid shall at their next session after the passing of this act, appoint one commissioner and one surveyor on the part of the said county, to act in concert with the commissioner and surveyor which are or may be appointed by the justices of the county court of Jefferson county, to ascertain and mark the division line between the two said counties as herein described, and to make return thereof to the next county court of their respective counties, for which service they shall be entitled to receive their fees as mentioned in the third section of the act aforesaid.

13. Sect. VII. The site above mentioned at Gibson's landing, is hereby established and declared to be the permanent seat of justice for the county of Claiborne aforesaid, and the justices of the county court of the said county, are hereby empowered and required to adjourn the said county court and all things therein pending to the said seat of justice, so soon as the court-house shall be prepared for their reception, or sooner if accommodation can be procured.

14. Sect. VIII. So much of the act aforesaid, entitled "an act for dividing Jefferson county and for other purposes therein mentioned," as comes within the purview and meaning of this act, be, and the same is hereby repealed.

ACT of February 1, 1805. (Stat. p. 26.)

Whereas, Richard Brashears has laid out a town on the lands of said Brashears, whereon the court-house now stands in said county, and it being necessary that the same should be established and regulated by law.

15. Sect. I. Said town shall be known and distinguished by the name of "Wakefield," and is hereby established agreeably to the

present plan, a copy of which said proprietor is hereby required to file in the clerk's office of the county of Washington, within six months after the passing this act.

Sect. II. John Armstrong, Geo. Brewer, jun. James Denby, sen. Edward Craighton and Thomas Bassatt, be, and they are hereby appointed commissioners for the regulating of said town of Wakefield, vested with full power and authority for that purpose.

ACT of February 21, 1805. (Stat. p. 28.)

Whereas, a town has been laid out on the lands of the executors of David Odam, deceased, the lands of Abijah Hunt, and the lands of Ferdinand L. Claiborne, adjoining the court-house of Jefferson county, and it being necessary that the same should be established by law, therefore,

16. Sect. I. Said town shall be known and distinguished by the name of Greenville, in memory and honor of Major-General Nathaniel Green, and the same is hereby established agreeably to the present plan; and said proprietors are hereby required to file a copy of said plan in the clerk's office of Jefferson county, within six months after the passing of this act.

Sect. II. Drury W. Brazeale, Henry D. Downs, Armstrong Ellis, Robert M'Cray and Robert Cox, be, and they are hereby constituted and appointed trustees for the regulation of said town, and vested with full power and authority for that purpose; and in case of the death, refusal to act, or removal from the county of any of said trustees, the survivors, or a majority of them, shall assemble, and are hereby authorised to nominate and appoint, by instrument in writing under their hands, some other person or persons, being an inhabitant and householder of said county, which said commissioner or commissioners so appointed, shall have and exercise the same powers and authorities in all matters, as the person or persons in whose room and stead he or they shall have been so appointed, had and exercised.

ACT of March 1, 1805. (Stat. p. 36.)

Whereas, the commissioners appointed by said act have refused to carry the provisions thereof fully into effect; therefore,

17. Sect. I. In lieu of the said commissioners, Thomas Malone, Nicholas Perkins, Richard Lee, Richard Brashears and William H. Hartgrove be, and they are hereby appointed, authorised and required to contract for the finishing of the court-house, jail, stocks and pillory in said county of Washington, superintend the same, and make all such alterations or additions therein as they shall deem expedient and proper.

ACT of February 7, 1807. (Dig. p. 6.)

18. **Sect. I.** Nothing contained in the "Act to establish the permanent seat of justice in Claiborne county, and for other purposes," or in any other act of the General Assembly, shall be so construed as to alter the boundaries of Washington county, as established by the proclamation of the governor of the Mississippi Territory.

ACT of February 10, 1807. (Dig. p. 213.)

19. **Sect. I.** There shall be erected and established in every county in which public buildings are not already provided, a good and convenient court-house, for the legal adjudication of causes: and a strong and sufficient jail or prison, for the reception and confinement of debtors and criminals; well secured by timber, iron grates, bolts and locks: and also a pillory, whipping-post, and so many stocks, as may be convenient for the punishment of offenders. And every jail so to be erected, shall consist of three apartments at least; one of which shall be appropriated to the reception of debtors.

Sect. II. Every court-house and jail to be erected as aforesaid shall be formed of such materials, and to such dimensions, and on such plans, as shall be directed by the justices of the county court, or a majority of them, in each county; who are hereby authorised to plan and project the same, and to accept as a gift, or to purchase for the use of the county, so much ground in the towns where the courts may be ordered to sit, as they may judge convenient and necessary whereon to build all or any of the structures aforesaid; which purchase money shall be defrayed, by the proper county, and laid in the county estimates.

Sect. III. The said justices, or a majority of them in every county, shall appoint two commissioners, of industry and knowledge, sufficient to plan and carry into effect, by drawing the draught, superintending the foundation, and erecting and completing of every court-house, jail, pillory, whipping-post, and stocks respectively. And for the faithful discharge of their duty in this behalf, the said commissioners shall enter into bonds in the sum of five hundred dollars, with sufficient sureties to the justices of the county court, in trust for the county; well and truly to account with the said justices, as often as they may be thereunto required by them, for the disposition of all money or other property, by them received from time to time, from the said justices or treasurer, or any other person; or by any means whatever, for the purpose of aiding or assisting in building the said court-house, jail and other structures, in the county to which the commissioners may severally belong. And on default in the commissioners, for want of attention or competent knowledge to carry on the work with propriety, the said justices shall have power to discharge one or both of them, and place others in their stead, taking the same surety from them.

SECT. IV. Every county, now or hereafter to be erected and laid off within the territory, shall defray all expences that may attend the building and keeping in good repair, within itself, the court-house jail, pillory, whipping-posts and stocks, hereby ordered ; and to this purpose, for the greater forwarding of the business, it shall be lawful for the justices aforesaid, and they are hereby authorised, to draw out of the hands of the treasurer of the county, any sums of money which he may have received belonging to the county, not otherwise appropriated : and the said justices are hereby directed to apply the same wholly to the purposes of building a jail and court-house, pllory, whipping-posts and stocks. But in every county, a jail shall be first erected ; and the treasurer and justices are to govern themselves accordingly.

ACT of January 8, 1807. (Dig. p. 407.)

20. SECT. I. John Baker, James Morgan and John F. M'Grew, be appointed commissioners, and they are hereby authorised to lay out a town (the streets of which shall not be less than one hundred feet wide) on the lands of the said Edwin Lewis, near Fort St. Stephens, reserving for the use of this territory, agreeably to the intention of the said Edwin Lewis, so much land in the said town, so to be laid out, for public purposes, as the aforesaid commissioners may think necessary, subject to the future disposal of the legislature of the Mississippi Territory.

SECT. II. The said commissioners are hereby authorised and directed to receive of the said Edwin Lewis, a good and sufficient title to such reserved land, in behalf of the territory ; and it shall further be the duty of the said commissioners, to deliver a plan of the said town by them so to be laid out, together with the title to such reserved land by them to be taken as aforesaid, to the clerk of the county court of said county, within one month after laying out the same, whose duty it shall be to record the said plan and title in his office.

ACT of March 1, 1808. (Stat. p. 20.)

21. SECT. I. John Ellis, John Bolls, Pierson Lewis, David Burney and James Foster, be and they are hereby appointed commissioners to contract for and receive titles to two acres of land from John Foster in the town of Washington, in the name of the county of Adams, whereon to erect a court-house, jail, pillory and stocks. And the said commissioners or a majority of them are hereby authorised and required to contract for the erection of said public buildings, in such manner as they may think most proper and conceive to the interest of the county.

22. SECT. IV. As soon as the court-house and jail shall be erected and fit for occupation the said commissioners shall advertise the same in one of the newspapers, and from that time the Supreme Court for the Mississippi Territory, Circuit Court and County Court, for the county of Adams, and the proceedings therein shall be adjourned to the said court-house; any law to the contrary notwithstanding.

ACT of February 24, 1809. (Stat. p. 4.)

23. SECT. I. The county of Wilkinson shall be divided as follows, to wit: Beginning at the thirty mile post, east of the Mississippi river on the line of demarkation, and running with the township line due north until it intersects the line of Adams county, thence with the said line east to the line of Washington county, thence along said line to the aforesaid line of demarkation, thence west along the said line to the place of beginning; and all that country lying east of the dividing line shall compose one county by the name of Amite.

24. SECT. II. James Robertson, Thomas Waggoner, Joshua Collins, Robert Montgomery and James Chandler be, and they are hereby appointed commissioners to fix on the most convenient place for the erection of public buildings in said county of Amite.

25. SECT. III. The said commissioners are hereby authorised to procure by purchase or otherwise not less than fifty acres of land, and not more than one and a half miles from the centre of said county, including a good Spring, nearest to the centre of said county, which said centre to be regulated by a view to the ultimate boundary of the said county, extending thirty miles from the aforesaid dividing line, whereon to erect the necessary public buildings for said county; which tract of land when obtained shall be valid to said commissioners for and in behalf of said county, to all intents and purposes, and shall be laid out under the directions and superintendance of said commissioners into half acre lots, and sold, reserving two acres for the public buildings, at public auction, at twelve months credit, and the money arising therefrom applied towards defraying the expences of erecting the public buildings of said county.

SECT. IV. The town when laid out agreeably to the foregoing section shall be called and known by the name of Liberty, and so soon as the public buildings are fit for the reception of the courts of said county, the said commissioners shall report the same to the county court of said county.

26. SECT. IX. The surveyor appointed by the aforesaid commissioners shall make a correct map of said town, which he shall certify and return to said commissioners, who shall deliver it to the clerk of the county, whose duty it shall be to record the same in his office.

ACT of December 18, 1809. (Stat. p. 45.)

27. SECT. II. Hugh Davis, Nehemiah Carter, William Cain, Daniel Williams, Henry Hunter, junr. John Foster and Isaac Johnson, be and

they are hereby appointed commissioners, to establish a site whereon to erect a court-house, jail, pillory and stocks, in the county aforesaid, within one and a fourth mile east and west of the fifteenth mile meridian line, crossing with the ridge road, leading from Fort Adams to John Low's, and the said commissioners or a majority of them, are hereby authorised to contract for, and receive titles to five acres of land, in the name of said county, from any person or persons, authorised to convey the same, on which to erect a court-house and other public buildings.

28. SECT. III. Joseph Tanner, Peter Robert and Abraham M. Scott, be, and they are hereby appointed commissioners with full power and authority, to contract with some competent person to erect for the said county, on the site so established for the public buildings of said county, a court-house, jail, pillory and stocks, on such plan, and in such manner, as they, or a majority of them may think proper: Provided, that the sum for building the same shall not exceed five thousand dollars.

ACT of December 21, 1809. (Stat. p. 83.)

29. SECT. I. The county of Washington shall be, and the same is hereby divided in the following manner, to wit: Beginning on the line of demarkation, where the trading road leading from the Choctaw nation to Mobile, crosses the same, thence along said trading road, to the present Choctaw boundary line, thence along said boundary line to Pearl river, thence down the same to the line of demarkation, and with the same to the place of beginning, and all that tract of county within the above described boundary, shall compose a county, which shall be called Wayne.

30. SECT. II. All that tract of country within the following boundaries, to wit: beginning on the line of demarkation, where the trading road leading from the Choctaw nation to Mobile crosses the same, thence with the said trading road to where the fifth parallel township line crosses the same, thence east with said line to Bassett's creek, thence down the same to its junction with the Tombigbee river, thence up said river to where the fifth parallel township line crosses the same, thence with said township line east to where it intersects the Indian boundary line, thence with said boundary to the cut off, thence up the cut off to the Alabama river, thence across the same to the Indian boundary line, thence with said boundary line to the line of demarkation, and with the same west to the beginning, shall compose a county which shall be called Baldwin.

31. SECT. III. All that tract of country within the following boundaries, to wit: Beginning on the trading road leading from the Choctaw nation to Mobile, where the fifth parallel township line crosses the same, thence east with the said line to Bassett's creek, thence

down the same to its junction with the Tombigbee river, thence up the said river to where the fifth parallel township line crosses the same, thence with said township line east to where it intersects the Indian boundary line, thence with the same to where it intersects the northern Indian boundary, thence with the same westwardly to the trading road, and with said road to the beginning, shall compose a county which shall be called Washington.

32. Sect. IV. James Patton, Thomas Morgan, John Brewer, Josiah Skinner and Michael Elliott be, and they are hereby appointed commissioners for the county of Wayne; John Hinson, William Buford, John Johnson, John Carson and John Joseph Stiggins, commissioners for the county of Baldwin; Francis Stringer, George Brewer, John Baker, William Murrell and John Pickering, commissioners for the county of Washington, with power and authority to fix and establish the permanent seat of justice within their several counties; and in case of a division of either of said boards of commissioners, a majority shall rule.

ACT of December 21, 1809. (Stat. p. 88.)

33. Sect. I. The part of Adams county included within the following boundaries, shall hereafter compose one county, to be designated and known by the name of Franklin, to wit: beginning at the point where the Basis meridian line intersects the river Homochitto, and pursuing the said meridian line until it intersects the line dividing the counties of Adams and Jefferson, thence pursuing the last mentioned line to the western boundary of Washington county, thence pursuing the last mentioned line until it intersects the northen boundary of Amite county, thence along the said last mentioned boundary line to the point where it intersects the said river Homochitto, and thence pursuing the meanders of said river to the beginning point first mentioned.

34. Sect. II. John Spires, Richard Coleman, Dougal M'Laughlin, Stephen Middleton and Samuel Ratcliff, or a majority of them, shall be, and they are hereby appointed commissioners, with full power and authority to purchase twenty-five acres of land, whereon to erect a court-house, jail, stocks and pillory for said Franklin county; that they contract with some qualified person or persons for erecting the said buildings, taking bond with approved security for the faithful performance of the same according to the plan, and to be finished at the time prescribed by the said commissioners: *Provided*, The site to be fixed on by said commissioners for the erection of said buildings shall be within two miles of the intersection, the third parallel sectional line with the eastern boundary line of township number six, range number two east.

35. Sect. III. At least two acres of land shall be reserved by said commissioners, out of the aforesaid twenty-five, on which the public

buildings are to be erected, and the balance thereof shall be laid out into a town by the name of Franklin, with streets of at least sixty feet wide, and into lots of one half acre each; which said lots the aforesaid commissioners shall have power and authority to sell out to the highest bidder at public vendue, and make deeds therefor, and all sums that may or shall be received over and above what may pay for the land which shall be purchased as aforesaid, shall by the said commissioners be appropriated towards paying for the public buildings of said county.

ACT of December 22, 1809. (Stat. p. 94.)

36. **Sect. II.** William Dickson, Edward Ward, Louis Winston, Alexander Gilbreath and Peter Perkins, residing in the county of Madison, be appointed commissioners for the purpose of fixing on the most convenient place for establishing the public buildings in the said county; and they, or a majority of them, shall have power and authority to procure by purchase or otherwise, not less than thirty nor more than one hundred acres of land, at the most convenient and suitable place for the erection of the public buildings aforesaid, which tract of land when obtained either by purchase or otherwise as aforesaid, shall be laid out into half acre lots by the commissioners aforesaid (reserving three acres, upon which the public buildings shall be erected) and be sold at public auction on twelve months credit; and the money arising therefrom, (after paying for the land aforesaid if the same shall be purchased) shall be applied by said commissioners towards defraying the expences of erecting the public buildings of the said county.

Sect. III. The town so laid out shall be called and known by the name of Twickenham; and so soon as the public buildings are fit for the reception of the courts of the said county, the said commissioners shall report the same to the County and Circuit, or Superior Courts, of said county, as the case may be, who shall thereupon adjourn their courts respectively to the court-house so erected as aforesaid.

37. **Sect. IV.** All that part of the Mississippi Territory which lies north of the river Big-Black, is hereby erected into a new county, which shall hereafter be called and known by the name of Warren; and Benjamin Hicks, James Scarlet, Jonas Griffin, Jesse Smith and Stephen Gibson are hereby appointed commissioners: they, or a majority of them, shall have full power and authority to fix on the most central and convenient place, on which the public buildings in said county shall be erected, and to procure by purchase or otherwise, not less than twenty, nor more than one hundred acres of land, at the most suitable place as aforesaid, for the erection of the said public buildings; which tract or parcel of land, when obtained, shall be laid out by the said commissioners into half acre lots, (reserving two acres as a public square, on which the public buildings are to be erected) which shall be sold at public auction, at twelve months credit, the purchaser giv-

ing bond and security to be approved of by said commissioners; and the money arising from such sale (after paying for the land which shall have been purchased as aforesaid) shall be applied by said commissioners towards defraying the expences of erecting the public buildings of the said county. And the town so laid out as aforesaid, shall be called and known by the name of "Warrenton;" and so soon as the public buildings are fit for the reception of the courts of the said county, the commissioners shall report the same to the County Court, or Circuit or Superior Court thereof, who shall thereupon respectively adjourn their said courts to the court-house of said county; and until the court-house shall be fit for the reception of the courts as aforesaid, they shall be held at the house of Mr. Hylands in said county.

ACT of December 22, 1809. (Stat. p. 97.)

38. SECT. I. The dividing line between the counties of Adams and Jefferson, shall hereafter be as follows, to wit: Beginning at the Mississippi river immediately opposite the plantation of E. Rose, and thence running on the north side of the said Rose's plantation to Stover's Mount near Fairchild's creek; thence running up the south branch of the said creek, following its course up the main branch of the said creek to a place known by the name of John Griffin's still-house spring; thence to the north end of Edmund Andrew's gin; and thence a due east course until it intersects the basis meridian line; thence pursuing the said line south until it intersects the seventh parallel township line; thence pursuing said township line until it intersects the Indian boundary line.

ACT of December 3, 1810. (Stat. p. 26.)

39. SECT. I. The site of justice for the county of Franklin, fixed upon by the commissioners named in the second section of the act to which this is an amendment, upon a tract of twenty-five acres of land, received by the said commissioners of James Cain, as a donation for the use of said county, is hereby made the permanent site of justice for said county.

ACT of December 3, 1810. (Stat. p. 29.)

40. SECT. I. The river Homochitto shall be the boundary line between the counties of Adams and Wilkinson, from its mouth to the basis meridian line, and between the counties of Wilkinson and Franklin from the last mentioned place to township range No. 1, east; and between the counties of Amite and Franklin from the last mentioned place until it is intersected by the fourth township line, and from thence by fourth township line to Pearl river.

ACT of November 25, 1811. (Stat. p. 4.)

41. SECT. I. Josias Bullock, is hereby authorised to lay off a town

on his land, near St. Stephens, which town, when laid off, and a plat of the same recorded in the clerk's office of the county court of Washington county, shall be called and known by the name of Rodney.

ACT of November 25, 1811. (Stat. p. 5.)

42. Sect. I. From and after the passage of this act, the county town of Madison county (now called Twickenham) shall be called and known by the name of Huntsville.

ACT of December 7, 1811. (Stat. p. 7.)

43. Sect. I. Thomas Hinds and Daniel Beasley, of the county of Jefferson, and Samuel Cobun and Allen Barnes, of the county of Claiborne, be, and they are hereby appointed commissioners for the purpose of marking out the dividing line of Jefferson and Claiborne counties as established by an act, entitled "An act to establish the permanent seat of justice in Claiborne county and for other purposes," passed March 12th, 1803, and that Alexander Montgomery and Ferdinand L. Claiborne, of Adams county, and Joseph Dunbar and Hezekiah J. Balch, of Jefferson county, be, and they are hereby appointed commissioners for the purpose of marking out the dividing line between the counties of Adams and Jefferson from a place on the main branch of Fairchild's creek, known by the name of John Griffin's Still-House spring, to the place of the said counties line of intersection with the basis meridian line as established by an act, entitled "An act to establish a permanent boundary line between the counties of Adams and Jefferson," passed the 22d December, 1809.

Sect. II. The commissioners appointed by the first section of this act, for marking out the boundary lines of the counties of Jefferson and Claiborne, and of the counties of Adams and Jefferson respectively, shall appoint a surveyor, who shall under their directions, mark out the lines aforesaid, and whenever the commissioners or either of them from either of the counties aforesaid, shall be ready to proceed to mark out the line assigned to them, they or either of them shall give notice in writing to the commissioners who are to act with them, to meet at the point of such counties line, first mentioned in this act, on a certain day, to proceed to mark out the line assigned them as aforesaid; and on which day, or any day subsequent thereto, the said commissioners or either, or any of them, shall proceed to mark out the line dividing their counties.

Sect. III. The lines run pursuant to the foregoing directions, shall be reported to the respective county courts, and there to be recorded.

44. Sect. IV. The surveyors employed as aforesaid, shall be paid by the counties between which they shall have marked out the divid-

ing line, for their services, equally including compensation for chain carriers and axe-men, and upon the surveyors producing to the county courts respectively their accounts, certified by the commissioners or commissioner under whom they acted, that the same is reasonable and just, the said court shall pass the account for their part of the same, and order it to be paid by their county treasurer.

45. **Sect. V.** The commissioners appointed to run and mark out the line between the counties of Jefferson and Claiborne do run and mark out the same between the counties aforesaid agreeably to the line mentioned in the before recited act, as far as the Red Lick road, from thence a course to intersect the south fork of Bayou Pierre, at Elijah S. Clerk's waggon ford on said creek, from thence up the various courses of said creek to the Indian boundary line, which line shall be the permanent boundary between the aforesaid counties.

ACT of December 9, 1811. (Stat. p. 36.)

46. **Sect. I.** The town as laid out at the court house in Wilkinson county, shall be hereafter known and called by the name of Woodville and that the freeholders and householders within the town of Woodville, shall on the first Monday in January, in each and every year, at the court house in said town, hold an election, to commence at ten o'clock in the morning, and close at two o'clock in the afternoon, and then and there elect by ballot five commissioners, (a majority of whom shall constitute a quorum to do business) also, town treasurer, assessor and collector, to serve for the term of one year ; and said commissioners so elected, shall on the next day after such election, in every year, meet, and choose by ballot from their own body a president, whose duty it shall be, to preside, and keep order in the meeting of the said commissioners, and in his absence, or incapacity to act, any other member may be called to the chair. And the said commissioners shall be, and they are hereby constituted a body corporate by the name, and style of the president, and commissioners of the town of Woodville, and by that name they and their successors shall be capable in law of suing and of being sued, of pleading, and being impleaded in all manner of suits, and actions in either law, or equity, and also to do all acts, which are incident to bodies corporate.

Sect. II. The commissioners at their first meeting in each, and every year, have power and authority to raise such sum, or sums of money, as they shall think necessary for the well regulation of said town, which sum or sums shall be assessed upon the freeholders, and householders in the said town by the assessor according to regulations to be established by the commissioners, and collected by the said collector, by such a time to be paid, and disposed of in such manner as the said commissioners (or a majority of them) shall think proper : *Provided,* Such sum shall not in any one year exceed twelve and a half cents, for every hundred dollars worth of property, liable to taxation; but, if that sum be insufficient to answer the purpose of well regulating the said town, it shall be lawful for the president, by the advice of a majority of the commissioners, to call a meeting of the freeholders and householders of the said town, by giving five days notice of such meeting, and the said freeholders and householders, by a majority of votes may order, and direct, that a further sum be raised as to them may appear expedient, which further sum shall be assessed, collected, and paid, as shall be directed by the commissioners, or a majority of them.

SECT. III. All free male inhabitants subject to taxation, who shall be in the occupancy of a room or rooms, separate and apart to himself, shall be deemed a householder, within the meaning of this act, and shall be entitled to vote at the town elections.

SECT. IV. The said commissioners shall meet on their own adjournment, and have power from time time, to make such laws and regulations in writing, as to them may appear expedient for the well regulating, and good government of said town: *Provided*, Such laws, and regulations be not inconsistent with the laws, or constitution of the United States or of this territory. They shall also have power, and they are hereby authorised, to impose reasonable fines against all, and upon all persons, who shall offend against the laws and regulations made by the commissioners, and all such fines to demand, and recover before any justice of the peace, or court of record, having jurisdiction of such sums.

SECT. V. In case of death, resignation, or removal from the said town of any of the said commissioners, the president for the time being, shall call a meeting of the freeholders and householders, by advertising the same at the court house, five days before meeting, who shall by ballot proceed to supply such vacancy.

SECT. VI. All male persons above the age of sixteen, and under the age of fifty, residing within the bounds of the said town of Woodville shall be made to work on the streets, and public square of the said town, in such way, as may be prescribed by the said commissioners, and they are hereby discharged from working on the roads of the county; any law to the contrary notwithstanding.

ACT of December 9, 1811. (Stat. p. 39.)

47. SECT. I. The landholders, freeholders, and householders, within the town of Port Gibson shall on the first Monday in January, or as soon thereafter, as may be convenient, in each and every year, at the court house in said town, hold an election, to commence at ten o'clock in the morning, and close at two in the afternoon, and then, and there elect by ballot seven commissioners, a majority of whom shall constitute a quorum, to do business: also, a town treasurer,

assessor, and collector, to serve for the term of one year, and the said commissioners so elected, shall on the next day after such election in every year meet, and choose by ballot from their own body a president whose duty it shall be to preside, and keep order at the meeting of said commissioners, and in his absence, or incapacity, any other member may be called to the chair, and the said commissioners shall be, and they are hereby constituted a body corporate by the name and style of the president and commissioners of the town of Port Gibson, and by that name they, and their successors shall be liable in law of suing, and of being sued, of pleading, and being impleaded in all manner of suits or actions, in either law or equity, and also to do all acts which are incident to bodies corporate.

Sect. II. The commissioners at their first meeting in each and every year, have power and authority to raise such sum or sums of money as they shall think necessary for the well regulation of said town; which sum or sums shall be assessed upon the landholders, freeholders, and householders within the said town, by the assessor, according to regulations to be established by the commissioners, and collected by the collector by such a time, and be paid and disposed of in such manner as the said commissioners shall provide: *Provided*, Such sum shall not in any one year exceed twelve and a half cents for every hundred dollars worth of property liable to taxation; but if that sum be insufficient to answer the purpose of well regulating the said town, it shall be lawful for the President, by the advice of a majority of the commissioners, to call a meeting of the landholders, freeholders and householders of said town, by giving five days previous notice of such meeting, and the said landholders, freeholders and householders, by a majority of votes, may order and direct that a further sum be raised, as to them may appear expedient; which further sum or sums shall be assessed, collected and paid, as shall be directed by the commissioners.

Sect. III. All free male inhabitants subject to taxation, who shall be in the occupancy of a room or rooms, separate and apart to himself, shall be deemed a householder, within the meaning of this act, and shall be entitled to vote at the town elections.

Sect. IV. The said commissioners shall meet on their own adjournment, and have power from time to time to make such laws and regulations, in writing, as to them may appear expedient for the well regulation and good government of said town: *Provided*, Such laws and regulations be not inconsistent with the laws or constitution of the United States, or of this Territory. They shall also have power, and they are hereby authorised to impose reasonable fines against all, and upon all persons who shall offend against the laws and regulations made by the commissioners, and all such fines to demand and recover before any justice of the peace, or court of record, having jurisdiction of such sums.

Sect. V. In case of death, resignation, or removal from town of any of the commissioners, the president for the time being, shall call a meeting of the landholders, freeholders and householders, by advertising the same at the court-house five days before the meeting, who shall by ballot proceed to supply such vacancy.

ACT of December 9, 1811. (Stat. p. 47.)

48. Sect. I. The town of Huntsville, in Madison county, shall be, and the same is hereby incorporated, and all free white male inhabitants of said town, above the age of twenty-one years, are hereby authorised to vote for five persons as trustees of said corporation, who are authorised and empowered to superintend the police of said town, by passing such by-laws, not contrary to the laws of the United States, or of this Territory, as they may think proper for the well government of said town, and for the suppression and removal of nuisances, laying off and repairing the streets.

Sect. II. The said trustees, or a majority of them, are hereby authorised to assess such taxes on all property lying within the boundaries of said town, as they may think proper for all the purposes of a proper police, said assessment of taxes not to exceed two hundred dollars.

Sect. III. There shall be a constable appointed within the limits of said town, whose duty it shall be to collect the taxes mentioned in the preceding section, and to whom the taxes aforesaid shall be given in upon oath ; and the said constable shall receive on such taxes, when collected, five per centum for collecting and paying over the aforesaid taxes to such trustees as may be appointed by the board to receive the same.

Sect. IV. The election for trustees shall be held at the courthouse on the first Monday in February annually, under the superintendance of the Sheriff and any Justice of the Peace ; which election shall commence at the hour of ten o'clock in the morning, and close at two o'clock in the evening.

ACT of December 9, 1811. (Stat. p. 48.)

49. Sect. I. The counties of Wayne, Franklin and Amite shall be, and the same are hereby divided in the following manner, to wit : Beginning on the line of demarkation, where the trading road leading from the Choctaw nation to Mobile crosses the same, thence along the said trading road to where the fifth parallel township line crosses the same, thence west with said line to the fourth range of township east of Pearl river, numbering from whence the line of demarkation crosses the same, thence down the said range of townships to the line of demarkation, and with the same east to the beginning, shall compose a county which shall be called Greene.

50. **Sect. II.** All that tract of country within the following boundaries, to wit: Beginning on the trading road, where the fifth parallel township line crosses the same, thence along said trading road to the present Choctaw boundary line, thence along said boundary line to the fourth range of townships east of Pearl river, thence down the said range of townships south to where the fifth parallel township line crosses the same, thence east with said line to the beginning, shall compose a county, which shall be called Wayne.

51. **Sect. III.** All that tract of country within the following boundaries, to wit: Beginning on the line of demarkation, where the fourth range of townships east of Pearl river intersects the said line, thence west with said line of demarkation to the sixty mile post, east of the Mississippi, being the first range of townships west of Tansopiho, thence north on said line of townships to the Choctaw boundary line, thence along said Choctaw boundary line to the fourth range of townships east of Pearl river, thence with said range to the beginning, shall constitute a county which shall be called Marion.

52. **Sect. IV.** Jesse Thompson, Josiah Skinner, Alexander M'Intosh, William D. Phelps and James Hartfield be, and hereby are appointed commissioners of Greene county; and that William Powe, George Evans, William Patton, James Marshall and John M'Rea be, and hereby are appointed commissioners of Wayne county; and that John Ford, George Henry Nixon, William Whitehead, Stephen Noble and John Graves be, and hereby are appointed commissioners for Marion county; with power and authority to fix and establish the permanent seat of justice within their several counties; and in case of division of said board of commissioners, a majority shall rule.

Sect. V, VI and VII, *Expired* 1813.

53. **Sect. VIII.** The commissioners appointed by this act to fix the permanent seat of justice for Marion county, shall be bound to fix the same on the west side of Pearl river, and within township No. 3.

54. **Sect. IX.** Until commissioners for fixing the seat of justice within the counties aforesaid, do fix on the same, the courts of said counties shall be held at the following places, to wit: In the county of Greene, at the house of Jesse Lot—in the county of Wayne, at the house of James Patton—and in the county of Marion, at the house of Ransom Onial: And so soon as the commissioners within any of the counties aforesaid shall have fixed upon the seat of justice for their county, the Superior and County Courts respectively shall meet at the place so fixed upon, and adjourn the court to some convenient place, fixed upon, until the court-house is in readiness for the reception of such courts, at which time the courts shall be adjourned to the same.

ACT of December 12, 1811. (Stat. p. 52.)

Whereas, the commissioners appointed by the third section of the act to which this is a supplement, are not thereby empowered to bring suits against the purchasers of any lot or lots which may have been sold by them in the town of Liberty, in Amite county, by virtue of the said act, therefore,

55. SECT. I. The commissioners appointed in virtue of the said act, and their successors be, and they are hereby authorised and empowered to bring suits in their own names, but for the use of Amite county, in any court within this Territory, having competent jurisdiction, against all and every person or persons whatever, who became, or who may hereafter become the purchaser or purchasers of any lot or lots in the said town of Liberty, from the said commissioners.

56. SECT. II. Joseph Robert and Thomas Polhill be, and they are hereby appointed commissioners, instead of Peter Robert and Joseph Tanner, to superintend the public buildings in Wilkinson county.

SECT. III. *Repealed January* 23, 1814.

ACT of December 13, 1811. (Stat. p. 61.)

57. SECT. I. There shall be established a town to be called and known by the name of Dumfries, on the lands of Joseph Pulaski Kennedy, and it shall be the duty of the proprietor to have recorded in the clerk's office of the county of Baldwin a plan of said town, within six months after the passage of this act.

SECT. II. The said proprietor may appoint a trustee or trustees, to sell or lease, or otherwise dispose of the lots in said town, and due conveyances to make for the same.

ACT of December 18, 1811. (Stat. p. 114.)

58. SECT. I. The place situate on the west side of the Tombigbee river, in the county of Washington, known by the name of St. Stephens, is hereby declared to be a town under the name of Saint Stephens, as aforesaid; and it shall be the duty of the owner or owners thereof, to deposit in the clerk's office of the county court of the county aforesaid, within six months after the passage of this act, a plat of said town.

SECT. II. The town of St. Stephens be, and the same is hereby incorporated; and the citizens of said town are hereby authorised, on the first Monday in March, annually, at the court-house of Washington county, to vote for five persons, inhabitants of said town, as trustees, which said election shall be superintended by some justice or justices of the peace, and shall commence at ten o'clock in the forenoon, and close at three o'clock in the afternoon of the same day.

SECT. III. A majority of said trustees shall constitute a board to do business, and shall have power and authority to pass such laws and regulations for the government and internal police of said town as they may think proper, not contrary to the laws of this Territory ; and the said trustees shall be a body corporate, by the name and style of the Trustees of the town of St. Stephens, and as such, shall have all the powers incident to bodies corporate.

Sect. IV. If any vacancy shall happen from death, resignation, or removal from said town, of any of the said trustees, that then the citizens shall have authority to elect such person as they may think proper, to fill the vacancy, at such time and place as the balance of said trustees may appoint, by advertisement at the court-house and such other public place within said town as they may think proper.

Sect. V. The said board of trustees may, at their first or any subsequent meeting, levy, and direct to be collected, a town tax, not exceeding one half of the amount directed by law to be collected as a Territorial tax, on persons and property within said town.

ACT of December 10, 1812. (Stat. p. 17.)

59. Sect. I. All that part of Washington county lying east of Tombigbee river, shall form a county which shall hereafter be called and known by the name of Clarke, and the courts of said county shall be holden at the house of John Laundrun, until the commissioners appointed by this act shall fix on the site for the public buildings, at which time the court shall stand adjourned to the place so fixed on by the commissioners, and may by the courts be adjourned for want of buildings to some convenient place contiguous thereto.

60. Sect. II. The courts of Washington county shall continue to be holden in the town of Rodney, until commissioners appointed by this act shall fix on a site for the public buildings, at which time the courts shall stand adjourned to the place so fixed upon, and may by the courts be adjourned for want of buildings, to some convenient place contiguous thereto.

61. Sect. III. George S. Gwin, John F. M'Grew, Peter Cartwright, Levin Hainsworth and David Dupree, are hereby appointed commissioners to fix on the permanent site for the public buildings of Washington county ; and Joseph Phillips, Samuel Hill, Moses Larrele, William Eavely and Warham Easely, are hereby appointed commissioners to fix on the permanent site for the public buildings of Clarke county ; and the commissioners in each of the counties aforesaid, or a majority of them, shall have power and authority to procure by purchase, to be paid out of the county treasury, not less than thirty, nor more than one hundred and sixty acres of land, on which to erect the public buildings in said counties, and the residue of the land so purchased, after reserving at least four acres for the public buildings, shall by the said commissioners be laid off in lots, and sold to the

highest bidder, on a credit of one, two and three years, the purchaser giving bond and security for the payment of the money, and which money is hereby appropriated to the use of the counties of Washington and Clarke respectively, for the purpose of paying for the building of the court-house, jail and other public buildings, for said counties respectively.

ACT of December 16, 1812. (Stat. p. 36.)

62. Sect. I. The county town in the county of Marion, is laid off in the fractional section No. 14, in township No. 3, range 13, east, situate on the west bank of Pearl river, is hereby established, and shall be called and known by the name of New-Columbia.

ACT of December 18, 1812. (Stat. p. 37.)

63. Sect. I. The country of Mobile be, and the same is hereby divided in the following manner, to wit: All that part of the county situate south of the thirty-first degree of north latitude, and bounded east by the Perdido river, west by the dividing ridge between the Mobile river and the Pascagoula, shall compose a county which shall be called "Mobile."

Sect. II. All that tract of country within the following boundaries, to wit; South of the thirty-first degree of north latitude and west of the dividing ridge between the Mobile and Pascagoula, and east of a line running due north from the middle of the Bay of Baloxi to the thirty-first degree of north latitude, shall compose a county which shall be called 'Jackson.'

Sect. III. All that tract of country lying south of the thirty-first degree of north latitude and west of the line running due north from the middle of the Bay of Baloxi to the thirty-first degree of noth latitude and east of the Pearl river, shall compose a county and shall be known by the name of 'Hancock.'

64. Sect. IV. The following persons shall be and they are hereby appointed commissioners with power and authority to fix on the permanent seat of justice of Mobile county, to wit: James Brady, Theodore Brightwell, Lewis Judson, William E. Kennedy and Josiah Blakley, and to procure by purchase or donation at the county expense a tract of land on which to erect the public buildings aforesaid, at least two acres of which they shall reserve for the public square, and the residue they shall lay off in lots of such size as they may deem most advantageous, and sell the same to the highest bidder on a credit of one, two and three years, taking bond and security from the purchaser, and the money arising from the sale of said lots shall be paid into the county treasury for county purposes.

Sect. V. *Repealed December 9, 1815.*

Sect. VI. *Repealed November 23, 1815.*

65. Sect. VII. Until the public buildings in the aforesaid counties are ready for the reception of the courts respectively, the same shall be holden at the following places, to wit: In the county of Mobile, at the house of Gerald Byrne; in the county of Jackson, at the house of Thomas Bilbo; and in the county of Hancock, at the house of Robert Dean; and the courts of said counties respectively, shall have power to adjourn the same from the houses aforesaid to any other place contiguous thereto for their own convenience.

Sect. VIII, IX and X. *See Courts.*

Sect. XI and XII. *See Attorney-General.*

ACT of December 18, 1812. (Stat. p. 64.)

66. Sect. I. James Patton be, and he is hereby authorised to lay off a town on his land, near the court-house of Wayne county, which town shall be called and known by the name of Winchester.

67. Sect. II. James Ware be, and he is hereby authorised to lay off a town on his land, on Ware's Bluff, in the county of Jackson, which town shall be called and known by the name of Jacksonborough.

68. Sect. III. Harman Runnels be, and he is hereby authorised to lay off a town on his land, on Pearl river, which town shall be called and known by the name of Monticello.

69. Sect. IV. Wilson Carmon be, and he is hereby authorised to lay off a town on his land in Baldwin county, near Fort Stoddert, which town shall be called and known by the name of Belville.

70. Sect. V. The proprietors of the aforesaid towns shall be bound to record a plan of their towns in the clerk's office of the county court of their respective counties, within six months after the passage of this act.

ACT of January 6, 1814. (Stat. p. 6.)

71. Sect. I. Joseph Blakely be, and he is hereby authorised to lay off a town on his land on the east side of Mobile Bay, in Mobile county, which town shall be called, known, and distinguished by the name of "Blakeley."

Sect. II. It shall be lawful for the said Joseph Blakeley to adopt the plat he already has, as the plan of said town of "Blakeley," which he shall record in the clerk's of the county court of Mobile county, within three months from the passing of this act.

ACT of January 20, 1814. (Stat. p. 16.)

72. Sect. I. The landholders, freeholders and householders, within the town of Mobile, shall, on the first Monday in March, or as soon thereafter as may be convenient, in each and every year, in said town, hold an election, to commence at ten o'clock in the morning, and close at four o'clock in the afternoon; and then and there elect by ballot seven commissioners, a majority of whom shall constitute a quorum to do business, also a town treasurer, assessor and collector, to serve for the term of one year; and the said commissioners so elected, shall, on the next day after such election in every year, meet and choose by ballot from their own body, a president, whose duty it shall be to preside and keep order at the meeting of said commissioners, and in his absence or incapacity, any other member may be called to the chair, and the said commissioners shall be, and they are hereby constituted a body corporate, by the name and style of President and Commissioners of the town of Mobile; and by that name, they and their successors shall be liable in law of suing and of being sued, of pleading and of being impleaded, in all manner of suits and actions, in either law or equity; and also to do all acts which are incident to bodies corporate.

Sect. II. The commissioners, at their first meeting in each and every year have power and authority to raise such sum or sums of money, as they shall think necessary for the well regulation of said town, which sum or sums shall be assessed upon the landholders, freeholders and householders within the said town, by the assessor, according to regulations to be established by the commissioners, and collected by the collector in such a time, and be paid and disposed of in such manner as the said commissioners shall provide: *Provided*, such sum shall not in any one year exceed twelve and a half cents for every hundred dollars worth of property, liable to taxation, but if that sum be insufficient to answer the purpose of well regulating the said town, it shall be lawful for he president, by the advice of a majority of the commissioners, to call a meeting of the landholders, freeholders and householders, of said town, by giving five days previous notice of such meeting; and the said landholders, freeholders and householders, by a majority of votes, may order and direct that a further sum be raised, as to them may appear expedient, which further sum or sums shall be assessed, collected, and paid as shall be directed by the commissioners.

Sect. III. All free male white persons subject to taxation, who shall be in the occupancy of a room, separate and apart to himself, shall be deemed a householder, within the meaning of this act, and shall be entitled to vote at the town elections.

Sect. IV. The said commissioners shall meet on their own adjournments, and have power from time to time to make such laws and regulations, in writing, as to them may appear expedient for the well regulation and good government of said town: *Provided*, such laws and regulations be not inconsistent with the laws or constitution of the United States, or of this territory. They shall also have power, and they are hereby authorised to impose reasonable fines against all and upon all persons who shall offend against the laws and regulations made by the commissioners; and all such fines to demand and recover before any justice of the peace, or court of record having jurisdiction of such sums.

Sect. V. In case of death, resignation or removal from town of any of the commissioners, the president, for the time being, shall call a meeting of the landholders, freeholders and householders, by advertising the same at the place of meeting in said town, five days previous thereto, who shall by ballot proceed to supply such vacancy.

ACT of January 15, 1814. (Stat. p. 20.)

73. Sect. I. For the time being the Superior and County Courts for the county of Mobile, shall be holden in the town of Mobile, at such house as may be fixed on by the County Court of said county.

ACT of December 1, 1814. (Stat. p. 3.)

74. Sect. I. The town of Mobile be bounded by a line commencing at Choctaw point and running in a straight direction to the western bank of the bayou Chotoge at a point lying two hundred yards above the place on said bayou Chotoge, called the Portage; thence down the western bank of said bayou to its mouth; thence down the river and bay of Mobile to the place of beginning: *Provided*, the president and commissioners of said town shall not have power to injure or in any manner use private property without the consent of the owner or owners, nor to remove as a nuisance any mill dam erected or that may be erected across the said bayou Chotoge.

75. Sect. II. The president and commissioners of said town of Mobile be, and hereby are authorised to lay a tax on stores, retailers of spirituous liquors, wheel carriages and billiard tables; but the tax hereby authorised to be laid upon retailers of spirituous liquors shall not exceed one half of the territorial tax; and the tax authorised to be laid upon billiard tables shall not exceed one tenth of the territorial tax.

Sect. III. The president and commissioners of said town be, and hereby are authorised to levy the town tax authorised by the second section of the act entitled "An act to provide for the go ernment of the town of Mobile," at such time in each year, as to them may seem most expedient, any thing in the act aforesaid notwithstanding.

76. Sect. IV. The president and commissioners in office, on the first Monday in March in each and every year, shall remain and con-

tinue in office, until successors be duly elected; and it shall be the duty of the president and commissioners, or any three of them remaining in office, to preside at the annual election appointed to be held on the first Monday in March, or as soon thereafter as convenient, and to declare the persons duly elected, at any such election, and when on counting the ballots there shall appear to be an equal number for two or more persons, it shall be the duty of the judges presiding at such election to declare which of the said persons is elected, and in case the whole number of commissioners authorised by law to be elected on the first Monday in March in each and every year, shall not be then elected, or if no election shall be had on that day, the said commissioners so remaining in office, shall appoint another day by public notice given in said town, at least eight days previous thereto, for holding an election for commissioners, or any number thereof, who may not have been duly elected on the first Monday in March; *Provided*, That if no election, or an incomplete election be had on the first Monday in March in any year, the time to be appointed by the president and commissioners for an election, shall be within one month thereafter.

77. Sect. V. The president and commissioners of the said town of Mobile, shall be and hereby are authorised to lay out, alter and establish all needful roads and highways leading out of said town, as far as the limits of the jurisdiction thereof; and they are hereby authorised to lay out and extend the streets of said town from time to time in such manner as to them shall seem expedient, but they shall have no power to alter the boundaries of the lots contained in the plan of said town.

ACT of December 27, 1814. (Stat. p. 23.)

78. Sect. I. John Hopkins, Daniel Burnet, and Thomas Jordan, be, and are hereby appointed commissioners in place of Daniel Beasley, Samuel Coburn and Allen Barnes, deceased, appointed under an act entitled "An act appointing commissioners to mark out the dividing lines between the counties of Claiborne and Jefferson.

ACT of December 24, 1814. (Stat. p. 29.)

79. Sect. I. The president of the town of Mobile shall have and exercise the same power and authority in judging of and executing the by-laws enacted by the president and commissioners, and the statutes relating to said town as is now possessed, by law, by the city magistrate of the city of Natchez, in relation to the said city of Natchez.

80. Sect. II. The county court for the county of Mobile be, and they hereby are authorised, to purchase or receive, as a donation, a lot in the town of Mobile, and to contract for the erection of the public buildings upon said lot.

ACT of December 22, 1814. (Stat. p. 29.)

81. **Sect. I.** Marion county shall be and the same is hereby divided in the following manner, to-wit: Beginning on the Franklin county line, where the middle section line of the fifth township intersects the same; thence east along the said line to its intersection with the eastern boundary line of the county of Marion. And all that tract of country on the north side of the said line, and within the original boundary of Marion county, shall form a county known by the name of Lawrence.

82. **Sect. II.** Stephen Price, James Stigler, Henry Smith, Benjamin Goodson and Jesse Wilson, be and they are hereby appointed commissioners to fix upon the public site of the county of Lawrence; and they are hereby required to fix the said site on Pearl river, for the great benefit and convenience of the people; and that until the same shall be so fixed on, the courts in the said county of Lawrence shall be held at the house of Wright Mitchell.

83. **Sect. III.** Benjamin Bagley, Nathaniel Wells, Jesse Thompson, William Spencer and William Lott be, and they are hereby appointed to fix on a temporary place for holding court in the county of Marion, in some place the best adapted to the general convenience of the people.

ACT of December 27, 1814. (Stat. p. 36.)

84. **Sect. I.** The county court of the county of Franklin be, and they are hereby authorised to appoint three commissioners to contract for the building of a jail in the said county of such materials and dimensions as a majority of said commissioners may direct.

Sect. II. The said county court be and they are hereby authorised to raise the annual sum of not exceeding one fourth of the territorial tax, by a tax upon such persons and property as are liable to pay a territorial tax, to be collected by the tax collector for said county, who shall enter into bond to the chief justice of said county, and his successors in office, conditioned for the faithful performance of the duties required of him by this act, and be entitled for the collection to the per centum allowed by law for collecting the territorial tax.

ACT of November 29, 1815. (Stat. p. 3.)

85. **Sect. I.** The tract of country included within the tract of land called and known as the St. Stephens tract, shall hereafter be designated and known by the name of the town of St. Stephens.

Sect. II. The landholders, freeholders and householders, within the said town of St. Stephens, shall, on the first Monday in March annually, at or near the market-house in said town, hold a meeting to commence at the hour of ten o'clock in the forenoon and close at the hour of five o'clock in the afternoon, and shall then and there elect by ballot five persons, inhabitants of said town, trustees of said town, a majority of whom shall at all times constitute a quorum to do business; also a town treasurer, assessor, collector and constable, to serve for one year; and the said trustees shall on the day next succeeding such election in each year, meet and choose by ballot from among their own numbers a president, who shall in each and every year be commissioned by the Governor as a justice of the peace for the town of St. Stephens, to continue in office until the time appointed by law for holding the next annual election, whose duty it shall be to preside and keep order at the meetings of said trustees; and in case of the absence of the president, any other of the trustees may be appointed president pro tempore, and the said trustees are herby constituted a body politic and corporate, and shall bear the name of "The President and Trustees of the town of St. Stephens," and by that name they and their successors shall have perpetual succession, may have a common seal, with liberty to alter it at pleasure, and all other powers incident to bodies corporate.

Sect. III. The trustees of the said town in office at the time of holding the annual election in each and every year shall remain and continue in office until successors be duly elected, and it shall be the duty of said trustees in office, or any two of them, to preside at the elections and declare the person or persons duly elected, and when on counting the ballots there shall appear to be an equal number of votes for two or more candidates, then the president shall vote, and in no other case; and in case the whole number of trustees authorised by law at any election should not be then elected, or if no election shall be had on that day, or in case of a vacancy occurring from death, resignation or removal from the town, the trustees then remaining in office shall appoint another day by public notice given by advertisement in said town, at least five days previous thereto, for holding an election for trustees or any number thereof required.

Sect. IV. The said trustees shall have power annually to cause to be levied, assessed and collected, such sums of money as they may think necessary for the supply of said town; which sum or sums shall be assessed upon the landholders, freeholders and householders within said town, by the town assessor, according to the regulations to be established by the said trustees, and collected and paid by the town collector under the directions of the said trustees: *Provided*, that the sum assessed and collected annually shall not exceed the sum of twelve and a half cents on every hundred dollars worth of property within said town, unless agreed to by a majority of the landholders, freeholders and householders residing within said town; and the president and trustees are hereby authorised to lay a tax on carts, drays, waggons, or other vehicles of transportation, and only such as are employed in transporting for pay or compensation any article whatsoever from one place to another within the limits of the town aforesaid, also on all retailers of spirituous liquors a sum not exceeding ten dollars per annum.

Sect. V. The said trustees shall meet on their own adjournments, and shall have power from time to time, and at all times hereafter, to make such by-laws and regulations, in writing, not inconsistent with the laws of the United States or of this Territory, as to them shall appear necessary for the good government of the said town, and the same to put in execution, revoke and alter as to them shall appear expedient. They shall also appoint their own clerk, a clerk of the market, and such other subordinate officers as they may think necessary for the good government of the said town, and by ordinance to require such security from the several officers, and to annex such fees to the several offices of the corporation and to impose such fines for the neglect of duty in office or misconduct in the same, as to them shall appear necessary; and to make, limit and impose, and tax reasonable fines and amercements, in any one case not exceeding twenty dollars, against all, and upon all persons who shall offend against the laws, ordinances and regulations of the corporation made as aforesaid; and all such fines and amercements to take, demand, require and levy of the goods and chattels of such offender by warrant issued under the hand and seal of the president, directed to the town constable, who is hereby required and authorised to execute the same; which fines shall be paid to the town treasurer, to be appropriated to the use and benefit of the inhabitants of the town.

Sect. VI. The said president and trustees shall have power to lay out and establish, or to alter all needful roads and highways leading out of said town, as far as the limits of the jurisdiction thereof, and to keep the same in repair with the hands belonging to said town to the exclusion of the jurisdiction of the county court of the county.

86. Sect. VII. The provisions of this act shall in all its parts extend to the trustees of the town of Huntsville in Madison county, except as to the time of holding the annual elections for trustees.

Sect. VIII. It shall be the duty of the trustees of said town to publish all the by-laws and ordinances made and established by them, either by inserting them in some newspaper published in the town where the same are made, or by posting them up at the market-house thereof; and no by-laws or ordinances shall be considered in force until the same is published as aforesaid.

87. Sect. IX. All acts and parts of acts, coming within the purview and meaning of this act be and the same hereby are repealed.

ACT of November 29, 1815. (Stat. p. 8.)

88. Sect. I. The public site of justice in the county of Hancock shall be fixed at the Bay of St. Lewis, and that J. Velco, Elisha Car-

ver, Thomas Shields, Noel Jordan and Thomas Wilkinson be, and they are hereby appointed commissioners, and they, or a majority of them, are hereby empowered to fix the said site and to receive titles from the person or persons on whose land the same may be fixed, for such land as may be donated by such person or persons to said county, which titles are to be drawn in favor of the chief justice of the Orphan's court of said county and his successors in office, for the use of said county.

Sect. II. Until such time as the public buildings may be erected, that the superior and county courts thereof shall be held in the house of Thomas Shields.

89. Sect. III. So much of the act entitled "an act to divide the county of Mobile and to establish courts in the counties therein named, and for other purposes," as relates to the fixing of the public site in the county of Hancock be and the same is hereby repealed.

ACT of November 29, 1815. (Stat. p. 12.)

90. Sect. I. The following persons, to wit: Duncan Stuart, James Carraway, Thomas Grinsbol, John Richardson and Abraham M. Scott be, and they are hereby appointed commissioners to contract for and superintend the building a good and sufficient jail and pillory in the county of Wilkinson, on the same lot of ground occupied by the former jail of said county, on such plan and in such manner as they may deem most proper and conducive to the interest of said county. And the said commissioners are hereby required to take bond with good and sufficient security, payable to the chief justice of the county court of said county, from such person or persons as may contract for the building of said jail and pillory, for the good and faithful performance of his or their contract.

Sect. II. For the purpose of defraying the expences of building said jail and pillory, there shall be laid by the county court of said county, at the first term of their court in the year eighteen hunnred and sixteen, a special tax, equal to one half of the territorial tax of said county for said year; and at the first term in the year eighteen hundred and seventeen, a special tax equal to the residue of the said expences: *Provided*, that the same shall not exceed one half of the territorial tax of said county for said year, to be assessed upon the property subject to territorial tax, in like proportion, and collected in the same manner, and at the same time, as are directed by law for the collecting the territorial tax, that the tax collector shall be allowed the same compensation as is allowed for collecting the territorial tax, and that he shall give bond with good and sufficient security to the chief justice of said county court; and that it shall be the duty of the said tax collector to pay over to the county treasurer of said county such money as may be collected under this act, on or before the first day of

November, in each and every year aforesaid; and on failure so to do, the said treasurer shall have the same mode of proceeding and recovery against the said collector as are by law given to the auditor of public accounts against defaulting tax collectors.

Sect. III. It shall be the duty of the said commissioners, and they, or any three of them, are hereby authorised to draw upon the said county treasurer from time to time, as they may deem proper, in favor of said person or persons contracting to build said jail and pillory, and that it shall be the duty of said county treasurer, and he is hereby required to pay the same out of any money in the treasury that may have been collected under this act.

ACT of December 8, 1815. (Stat. p. 22.)

91. Sect. I. The following persons, to wit: Thomas Hinds, James G. Wood, David Hunt, David Ker and Isaac Dunbar be, and they are hereby appointed commissioners to contract for and superintend the erection of a good and sufficient jail and pillory in the county of Jefferson, on the same lot of ground occupied by the former jail of said county, in such manner and on such plan as they, or a majority of them, may deem most proper and conducive to the interest of said county; and the said commissioners are hereby required to take bond with good and sufficient security payable to the chief justice of the county court of said county and his successors in office from such person or persons as may contract to build said jail and pillory for the good and faithful performance of his or their contract.

Sect. II. For the purpose of defraying the expences of building the said jail and pillory, there shall be laid by the county court of said county at the first term of the court in each of the years eighteen hundred and sixteen and eighteen hundred and seventeen, a special tax upon such persons and property as are liable to pay territorial tax, which shall not exceed one half the amount of the territorial tax of said county for said years respectively, to be assessed and collected in the same manner and at the same time as directed by law for collecting the territorial tax; and it shall be the duty of the tax collector for the county of Jefferson, to pay over to the commissioners appointed by this act the sums so collected, on or before the first day of November in each year aforesaid; and on failure so to do, the commissioners, or a majority of them, shall have the same mode of proceeding and recovery against the collector as is by law given to the auditor of public accounts against defaulting tax collectors; and the said collector shall be entitled, for the collection, to the per centum allowed by law for collecting the territorial tax.

Sect. III. If there should be a deficiency in the tax imposed by this act to complete the said jail and pillory, it shall be lawful for the commissioners to draw from the county treasury by order of the county court, any such deficiency, out of any money not otherwise appropriated; and if any balance should remain in the hands of said commissioners, after completing the jail and pillory, they are hereby required to pay over the same to the county treasurer, which shall be subject to the orders of the county court.

ACT of December 9, 1815. (Stat. p. 24.)

92. Sect. I. For the time being, the place of holding courts in and for the county of Munroe shall be at Fort Claiborne at such house as the presiding judge or justices of each respective court may fix on as most suitable and convenient, and may at the discretion of the courts be adjourned for the want of necessary buildings to some more convenient place contiguous thereto.

Sect. II, III and IV. *See Courts.*

ACT of December 9, 1815. (Stat. p. 26.)

93. Sect. I. An election shall be holden in the county of Jackson on the fourth Monday in May next for five persons, who, when elected, shall be commissioners to fix the seat of justice in the said county. And all persons residing in the said county and entitled to vote for a representative to the general assembly of this territory, or a delegate to congress, shall be authorised to vote at the election hereby authorsed to be holden; and the said election shall be conducted by the same persons and in the same manner as the election for representatives—however, to continue but one day. And it shall be the duty of the commissioners, or a majority of them, to meet at some convenient time and place, and to fix the permanent seat of justice for said county; and they, or a majority of them, shall have power to purchase, at the county expence, or to receive by donation a suitable parcel of land, including the place fixed on for the public buildings; and to lay it out in half acre lots, and sell them at public auction, on such terms as a majority of them shall think fit, and the money arising from the sale shall be applied by them to the erection of the public buildings in the said county. The commissioners are hereby authorised and required to take proper titles for the parcel of land which they shall fix upon as the permanent seat of justice, in their names as commissioners, and to have them recorded in the clerk's office of the county. And it shall be the duty of the Judge of the superior court of said county, and the justices of the county court, when informed by the said commissioners that they have fixed upon a place for the permanent seat of justice, and that suitable accommodations *has* been provided at said place, to adjourn the courts to the place fixed on by the commissioners.

ACT of December 9, 1815. (Stat. p. 27.)

94. Sect. I. The county at present known and called by the name of Marion, be and the same is hereby divided in the following manner

to wit: Beginning on the line of demarcation at the south east corner of Amite county, running from thence east along said line thirty miles; thence a line to run due north to its intersection with the summit of the dividing ridge between the waters of Boguechitto and Pearl River, after the same shall cross the waters of M'Gees Creek, thence along the said ridge until it intersects the southern boundary of Lawrence County; and all that tract of territory formerly a part of Marion County, lying north and west of the lines thus described, shall form a new county, hereafter to be known and called by the name of Pike.

Sect. II. Until the commissioners hereinafter mentioned shall fix upon a permanent site for each county, the places of holding courts therein shall be as follows; that is to say—In the county of Pike, at the house of Gabriel Allen on Boguechitto; and in the county of Marion, at the house of Stephen Peak; but so soon as the commissioners shall agree upon a public site for each respective county, then, if there be necessary and convenient buildings, if not, so soon thereafter as the same may be prepared, the courts of each county shall stand adjourned over to the places established by the commissioners for holding courts in each county, according to the directions of this act: Provided, however, that until the necessary buildings are prepared for the reception of courts in each county, as the permanent site therein, the courts may at the discretion of the judge, or justices, if the necessary building or other accommodations should not be provided at the places stipulated according to the provisions of this act, for the courts to be holden, during the intermediate space, be adjourned to some more convenient place contiguous thereto.

95. **Sect. III.** Benjamin Bagley, Peter Filder, senior, Obed Kirkland, William Bullock and David M'Graw, senior, or a majority of them be, and they are hereby appointed commissioners to fix on the site for public buildings at the most eligible place within three miles of the centre of the county of Pike, and which place when so fixed upon shall be and remain the permanent seat of justice for said county and John Harvey, senior, Stephen Peak, James M'Gowen, Charles Stevall and John M'Guffee or a majority of them be, and they are hereby appointed commissioners to fix on the site for public buildings on Pearl River, at the place most eligible and convenient for the inhabitants of Marion county and which place so fixed upon shall be the permanent seat of justice in said county.

Sect. IV, V and **VI.** *See Courts.*

ACT of December 13, 1815. (Stat. p. 40.)

96. **Sect. I.** The supreme court of errors and appeals shall, until a court-house be erected for the county of Adams, be held in such house in the town of Washington, as shall by the sheriff of Adams

county be provided for that purpose; and the clerk of said court, and the sheriff of said county shall give their attendance thereon accordingly.

SECT. II. A reasonable allowance shall be made by the auditor of public accounts, to said sheriff for the expense incurred by him in providing said house for the accommodation of said court: Provided the same does not exceed thirty dollars.

ACT of December 13, 1815. (Stat. p. 41.)

97. SECT. I. William Lewis, C. P. Hicks, Jacob Hyland, Francis Griffin, Henry Maynadier and Green Edwards be, and they are hereby appointed commissioners to contract for, and superintend the erection of a good and sufficient jail and pillory in the county of Warren, on the same ground which was occupied by the former jail of said county, in such manner and on such plan as they, or a majority of them, may think expedient, and the said commissioners are hereby required to take bond with good and sufficient security, payable to the chief justice of the orphan's court, or his successors in office, from such person or persons as may contract to build said jail and pillory, for the true and faithful performance of his or their contract.

SECT. II. For the purpose of raising money to meet the contract of said commissioners, there shall be levied by the county court of said county at the first term of their court, in each of the years eighteen hundred and sixteen and eighteen hundred and seventeen, a special county tax, upon such persons and property as are liable to pay territorial tax, which tax shall not exceed one half the territorial tax of said county for said years respectively, to be assessed and collected in the same manner and at the same time as is directed by law for collecting the territorial tax; and it shall be the duty of the tax collector of Warren county to pay over to the commissioners appointed by this act the sums so collected, on or before the first day of October in each year aforesaid; and on failure so to do, the said commissioners, or a majority of them, shall have the same mode of proceeding and recovery against the collector that is by law given to the Auditor of public accounts against defaulting tax collectors; and the collector shall be entitled to the same per centum for collection, that he is entitled to by law for collecting the territorial tax.

SECT. III. If there should be a deficiency in the sum raised in virtue of this act, to complete the said jail and pillory, it shall be lawful for the commissioners to draw from the county treasury by order of the county court any such deficiency, out of any money not otherwise appropriated; and if any balance should remain in the hands of said commissioners after completing the jail and pillory, they are hereby required to pay over the same to the county treasurer, which shall be subject to the orders of the county court.

98. Sect. IV. The commissioners appointed by virtue of this act, together with the surviving commissioners (appointed in virtue of the fourth section of the act, entitled, " an act directing courts to be held in the counties of Franklin and Madison and for dividing the county of Claiborne and erecting a new county by the name of Warren") or a majority of them, are hereby authorised and required to settle all the accounts unsettled, or other business remaining unfinished, which the said commissioners, or a majority of them, appointed by the fouth section of the aforesaid act, were authorised by law to do, in as full and ample manner as the commissioners appointed by the said section of the before recited act could, or might have done.

ACT of December 23, 1815. (Stat. p. 54.)

99. Sect. I. Any precept or warrant issued for any fine or penalty incurred by the breach of any of the by-laws of any incorporated city or town in this territory, may be made returnable forthwith.

ACT of December 23, 1815. (Stat. p. 57.)

100. Sect. I. There shall be assessed and collected in the county of Washington annually until the debts due to William Jordan for building the court-house of Washington county, and to John Hanes, administrator of Lewis Malone, deceased, for building a bridge across Bassett's creek in said county, are paid off and discharged, a tax equal to one half of the territorial tax collected in said county. Which tax shall be levied on the same persons and property as the territorial tax, and collected by the tax collector of said county, and paid over to the county treasurer at the same time and under the same regulations as are provided for the payment of the territorial tax to the territorial treasurer; and the tax collector shall have the same commissions for collecting and paying over the tax imposed by this act, as he is by law entitled to receive for collecting and paying over the territorial tax.

Sect. II. It shall be the duty of the county treasurer to pay over the money collected under this act to the said William Jordan and John Hanes, administrator as aforesaid, in proportion to the sums due them respectively; and if any balance remain in the county treasury after paying the said William Jordan and John Hanes the sums due them, the same shall remain in the county treasury for county purposes.

ACT of December 23, 1815. (Stat. p. 63.)

101. Sect. I. Abner S. Lipscomb, Joseph M'Carty, James Thompson, Hugh Tuinen, John Harris, Francis Boykin and John Wammock be, and they are hereby appointed commissioners to fix the permanent site for the public buildings of the county of Washington, and they, or a majority of them, shall have power and authority to purchase at the county expense, or receive by way of donation, for the use of the

county, any tract or parcel of land not exceeding one hundred and sixty acres, on which the public buildings aforesaid shall be fixed by them, and to sell and re-convey such parts of said land as they may judge expedient, for the benefit of the county, and the commissioners aforesaid shall meet at such time or times as they may think proper, and shall have power and authority to contract for the erection of a suitable court-house and jail for said county, and to take the necessary bond and security from the undertakers. The jail to be first built; and so soon as the said public buildings shall be completed, it shall be the duty of said commissioners to file, in the clerk's office of the superior court, a notification thereof, after which time the courts of said county shall stand adjourned to the same.

Sect. II. Until the public buildings of the county aforesaid shall be completed, the courts of said county shall be holden at the house of Robert Caller; and the courts of said county respectively may be adjourned to any other place in the neighborhood.

Sect. III. There shall be assessed and collected, annually, by the assessor and collector of the territorial tax for Washington county, a sum equal to one half of the territorial tax of said county; which said sums of money shall be paid over to said commissioners at the same time provided by law for the payment of the territorial taxes, and by them applied exclusively to the payment of the person or persons employed to erect the public buildings of said county. And the collector shall be entitled to the same commissions for collecting the said tax as he is by law entitled to receive for collecing the territorial taxes.

Sect. IV. All acts and parts of acts coming within the purview and meaning of this act be, and the same hereby are repealed.

ACT of December 27, 1815. (Stat. p. 76.)

102. Sect. I. The commissioners appointed for fixing on the sites for public buildings in the counties of Marion and Pike by virtue of an act entitled, "an act for the division of Marion county, establishing a new county by the name of Pike, and for other purposes," be, and they, or a majority of them, in each of the aforesaid counties, are hereby required to procure by purchase on the best terms that the same can be had, or receive by donation, within the limits allowed by the above recited act for the public buildings in each of the aforesaid counties, so much land as may be necessary for the seats of justice within the same: *Provided*, the quantity shall not be less than forty acres, or more than one quarter section.

Sect. II. It shall be the duty of said commissioners in selecting the aforesaid sites, to have an equal regard to eligibility of situation, the convenience of the inhabitants, and the terms of the contract, so as to promote the best interest of the counties respectively; and the lands so obtained shall inure to the use and benefit of the counties; and all bonds, conveyances and other writings concerning the same shall be drawn accordingly.

103. Sect. III. The lands obtained in each of the aforesaid counties, shall be laid out in towns, on the most approved plans under the direction of the board of commissioners for each respective county, reserving a sufficient quantity of the same in each, for a public square, a court-house, jail and church, and the balance to be sold by the commissioners in lots of such size as they may deem most expedient, and the commissioners shall make good and sufficient titles in fee simple for the same to the purchasers, so soon as said titles can be secured in themselves as commissioners aforesaid, out of the proceeds arising from the aforesaid sales, the amount of purchase money contracted by the commissioners for said lands shall be first paid, and then the expense of surveying and laying out said towns, and the balance of the proceeds held by the commissioners in each county, subject to future county purposes, with a view to the erection of the aforesaid public buildings, so far as the same may extend under such requisitions as the legislature may in future prescribe.

104. Sect. IV. The commissioners appointed for the purpose of fixing on the public site of justice in Lawrence county are hereby authorised to receive titles to the public square and sundry lots in the town of Monticello, donated to the said county; which titles are to be drawn in favor of the said commissioners for the use of said county, who are hereby authorised to sell the lots donated as aforesaid at public sale, on such terms of payment as they may conceive will tend best to advance the interest of the county, and to apply the proceeds of the sale to the erection of a court-house and jail.

ACT of December 27, 1815. (Stat. p. 82.)

105. Sect. I. There shall be assessed and collected in the county of Franklin, within the year one thousand eight hundred and sixteen, a county tax to the amount of seven hundred dollars for the purpose of defraying the balance of the expense of building a jail in said county, and the same when collected shall be paid over by the collector of said county to the commissioners appointed by the county court of said county to contract for building said jail; and the said commissioners shall have the same proceedings at law against the collector of said county, as is allowed the auditor of public accounts against delinquent collectors.

106. Sect. II. The second section of an act to establish two places of holding elections in Franklin county and for other purposes, and all other acts and parts of acts coming within the purview and meaning of this act, be, and the same is hereby repealed.

ACT of December 27, 1815. (Stat. p. 107.)

107. Sect. III. Hereafter the justices of the county courts be, and they are hereby authorised to make all necessary allowances for repairs done to the court-houses and jails of their respective counties, and the claims of persons summoned to guard criminals, on the sheriff's certificate, which shall be paid out of the county treasuries respectively: *Provided*, the sum so allowed by the county court shall not exceed one hundred dollars in any one year.

COUNTY SURVEYORS,

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ACT of December 7, 1811. (Stat. p. 17.)

1. Sect. I. There shall be a Surveyor commissioned by the Governor for each and every county in this Territory, who shall reside in the county of his appointment, and shall, before he enters on the duties of his office, produce his commission in his county court and in open court take oath well and truly to execute and perform the duties of his office: *And moreover*, shall give bond with good and sufficient security to be approved of by said court, in the sum of two thousand dollars, payable to the Governor for the time being, and conditioned for the due performance of the duties of his office.

Sect. II. It shall be the duty of the said surveyors faithfully to execute all orders of survey directed to them by any of the courts of this Territory, and to make all surveys of lands lying in the county of which he is surveyor, and to which the United States have no claim, at the request of the owners or proprietors thereof, and generally to do whatsoever in the resurveying, measuring and dividing of lands may be required of him by any person wishing the same done; and in all his mensurations he shall use and be governed by the English perch or pole.

Sect. III. The following fees shall be allowed, demanded and taken by the county surveyors, and no more, for the following services, by them rendered in virtue of their office, viz:

For every survey made by order of court, for every five perches actually run, three cents; for every single plat he shall make out from his own field notes, taken on the ground, and calculating the contents thereof, together with a certificate of survey annexed thereto, two dollars.

For every additional plat laid down by him, from any field notes, or from the records, with notes of reference thereto, fifty cents.

For every additional copy of such connected plat required by the court, with certificate of survey and notes of reference annexed thereto, where there is not more than one interference, one dollar.

For every other plat in said copy interfering therewith, and notes of reference, twenty-five cents.

For surveying a town lot, two dollars; and each additional lot, fifty cents.

For surveying a tract of land and giving a plat and certificate thereof, where the same does not contain more than six hundred and forty acres, eight dollars.

For every hundred acres, if over six hundred and forty, contained in the survey, fifty cents.

For running a dividing line per mile, two dollars.

2. Sect. IV. The fees, chargeable by the county surveyors as aforesaid, shall be paid by the party desiring the services to be performed; and when the services are rendered in obedience to an order of court, in a suit therein depending, the surveyor shall make out and state an account of his fees for such services, written in words at full length, on the back of one of the plats by him returned to the court, and the same shall be allowed in the bill of costs, to be taxed against the loosing party, as other costs; but where it shall appear that the survey, or any part thereof, was made at the instance of the party cast in the suit, such and so much of the said fees shall not be taxed, as accrue on the work done by the surveyor for him.

3. Sect. V. It shall be the duty of the county surveyor, whenever called on for that purpose, to re-survey and re-mark, and bound any tract of land in his county, where the old marks are defaced, or are likely to decay and perish, taking special care in all such cases to be governed by the original surveys, patents or title deeds of such tracts, and the said surveyors shall make a plain report and certificate of all such re-marks and boundaries, as he may make as aforesaid, and deliver the same to the proprietor or owner of the lands so re-bounded, whose duty it shall be to have the same recorded in the clerk's office of the county wherein the land is situated, within three months thereafter, and the clerk's fee for recording the same, shall be one dollar.

4. Sect. VI. Chain carriers and markers shall be allowed each one dollar per day for their services as such, to be paid in the same manner as is provided by this act for surveyors.

5. Sect. VII. Each surveyor appointed under this act shall, and is hereby authorised and required to administer an oath to each of his

chain carriers, faithfully and diligently to perform their duties as chain carriers without favor, affection or partiality.

6. Sect. VIII. It shall be the duty of each of the surveyors to be appointed under this act, to write the name of each of his chain carriers down on his plat.

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ACT of February 10, 1807. (Dig. p. 90.)

1. Sect. XI.* It shall be lawful for the Governor to appoint and commission five persons in every county, (one of whom shall be commissioned chief justice of the orphans' court) who shall be justices of the peace and of the *quorum*, in the counties respectively, for which they may be appointed. And the said five justices shall be justices of, and they, or any three of them, may hereafter hold, the county court, and orphans' court, of their respective counties; and the said court shall be held twice in every year, in every county within this territory, on the days and times hereinafter mentioned: that is to say, in the county of Washington, on the first Monday in January and July; in the county of Wilkinson, on the first Monday in January and July; in the county of Adams, on the second Monday in January and July; in the county of Jefferson, on the fourth Monday in January and July; and in the county of Claiborne, on second Monday in February and August, and each of the said courts may continue to be held six judicial days at each term, and no longer.

2. Sect. XIII. The said county courts shall have full power and authority to take the probate of wills, and also conveyances of real and other estates, and also to order the same to be recorded in proper bound books, to be kept for that purpose; and the said courts respectively, shall make orders for issuing letters testamentary, and letters of administration, which letters shall be signed and issued by the clerk of the said court, and may by summons, upon application made to them, compel any person or persons whatsoever, within their respective counties, having in their possession any will or testament of any deceased person, to exhibit the same to the court for legal probate thereof; and whoever being legally summoned, shall, in contempt of the court, refuse to produce any such will in his or her possession, or having been in his or her possession, shall refuse to inform the said court upon oath where such will then is, or in what manner he or she hath disposed of the same, such person shall, by order of court, be committed to the common prison of the county, there to remain without bail or mainprize, until such will shall be produced, and due submission

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*Time of holding Washington court, altered. Vide post.

made to the said court for such contempt ; and the said court shall, and is hereby empowered, in case of such person's removal to issue such summons and process for commitment into any county in the territory. And in case that any person should die intestate, who is a non-resident, or not properly an inhabitant of this territory, it may be lawful for any justice of the county court, at such death, to notify the same to two other justices of the same court, who shall procure some respectable person to take an inventory on oath, of the goods and effects of such deceased person, which goods and effects shall by them be deposited in the hands of some respectable inhabitant of the county, who shall have the entire care and possession of such property, to the intent that such estate may be safely preserved, and kept subject to the order of the next county court, for administration thereon.

3. Sect XIV. If any person who shall claim a right to execute any will, or to administer on the estate of an intestate, and shall think himself injured by order of court for letters testamentary, or of administration, he shall be entitled to an appeal to the superior court of the county or district where such order shall have been made, subject to the same regulations as in other cases of appeals ; and such superior court is hereby declared to have cognizance thereof ; and shall, at their sitting next succeeding such appeal, determine the same ; and upon such determination had, such court shall proceed to grant letters to the persons entitled to the same ; he or she (if on administration) giving bond with sufficient security, for the faithful discharge of the trust ; which bond and proceedings shall be transmitted by the clerk of the said superior court, to the office of the county court from whence the appeal issued, there to be entered and filed with the other testamentary transactions in such office. And for the better preservation of wills and other papers, relative to the estates of deceased persons, *Be it enacted*, That all original wills, inventories, and accounts of executors and administrators, shall remain in the clerk's office, among the records of the respective counties, where the same shall be proved or exhibited ; and to the said wills, inventories and accounts, any person may have free access, except for the time they shall or may be removed before any other court, upon the determination of any controversy.

4. Sect. XV. The justices of the several county courts in this territory, shall have authority, within their respective jurisdictions, from time to time, to take cognizance of all matters concerning orphans and their estates, and to appoint guardians in such cases where to them it shall appear necessary, and shall take good security of all guardians by them to be appointed, for the faithful discharge of the trust committed to them ; and shall, during their terms, keep and hold the orphan's court, in pursuance of the act concerning wills and testaments, the settlement of intestates' estates, and the duty of executors and administrators.

5. Sect. XVI. All original process, and all subsequent process thereupon, to bring any person or persons to answer to any action, suit,

bill or plaint, in any court in this territory, (except *subpœnas* for witnesses, which, in term time, may be made returnable immediately) shall be issued by the clerk of such court, and shall be returnable to the first day of the term, and shall be executed at least five days before the return thereof; and if any person shall take out any writ or process, while such court is sitting, or within five days before the beginning of the term; such writ or process shall be made returnable to the term next after that then held or to be held, within five days as aforesaid, and not otherwise: and all writs and process issued, made returnable, or executed in any other manner, or at any other time, than is herein before directed, may be abated upon the plea of the defendant.

6. SECT. XXII * The justices of every county court shall be, and they are hereby required and empowered, to mark and lay out the bounds and rules of their respective prisons, not exceeding ten acres, which marks and bounds shall be recorded, and renewed or altered, from time to time, as occasion shall require; and every prisoner not committed for treason or other felony, giving good security (at the discretion of the court, or three justices trereof, out of the court) to keep within the said rules and bounds, shall have liberty to walk therein, out of the prison, for the preservation of his or their health, and keeping continually within the said bounds, shall be adjudged and admitted in law a prisoner.

7. SECT. XXIII. If the business of any of the said county courts cannot be completed, ended and finished, within six days from the commencement of the said court inclusive, that all such actions, causes and matters that shall be depending in said court, shall remain undetermined and laid over to the next succeeding term.

8. SECT. XXIV. None of the said county courts, nor any process in any of them depending, shall be discontinued for or by reason of the justices failing to hold court upon the day by law appointed, or of any alteration of any of the days appointed for holding the said courts, but in every such case, all such process, matters and things depending, shall stand continued, and all appearances upon returns of process, shall be made to the next succeeding term in course, in the same manner as if such succeeding term had been the same term to which such process had stood continued, or such returns or appearances had been made; and all bonds and obligations for appearances, and all returns, shall be of the same force and validity for the appearance of any person or persons, at such succeeding term; and all summonses for witnesses as effectual, as if the next succeeding term had been expressly mentioned therein.

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*This section repealed in part, December 1815.

ACT of February 10, 1807. (Dig. p. 104.)

9. Sect. I. The territorial judges, and every one of them, shall have power and authority, when and as often as there may be occasion to issue forth writs of error, certiorari and habeas corpus, and all other remedial and other writs and process returnable to the supreme court, or either of the circuit courts, or to the district court of Washington, as the case may be, and which are grantable by the judges, by virtue of their office. They shall, in their said courts, hear and determine all causes, matters and things cognizable in the same, and also hear and determine all and all manner of pleas, plaints and causes, which shall be removed or brought there from any court to be holden for the respective counties, and examine and correct all, and all manner of errors of the justices of the inferior courts, in their judgments, process and proceedings in the said courts, as well in all pleas of the government, as in all pleas real, personal and mixed, and thereupon reverse or affirm the said judgments, as the law doth or shall direct. They shall also examine, correct and furnish the contempts, omissions and neglects, favours, corruptions and defaults of all, or any of the justices of the peace, sheriffs, coroners, clerks and other officers, within their respective counties: and shall award process for levying, as well of such fines, forfeitures and amercements, as shall be estreated into the superior courts, as of the fines, forfeitures and amercements which shall be taxed and set there and not paid, to the uses to which they are or shall be appropriated; and generally shall minister ample justice to all persons, and amply exercise the jurisdiction and powers herein mentioned, concerning all and singular the premises, according to law.

10. Sect. II Whereas the government of this territory is instituted for the peace, protection, and happiness of the people thereof, and it being contrary to these objects, that any man, or body of men, should have or exercise in any case, an unlimitted, arbitrary power to fine and imprison for offences against him, or themselves, in any capacity whatever; and whereas the trial by jury, in all penal, as well as criminal cases, is both a safe and adequate mode of investigation and decision, and should only be suspended in cases of absolute necessity: *Be it enacted,* That no court shall, for any contempt against such court, pass judgment for, decree, order, or inflict, or cause to be inflicted, any fine exceeding the sum of twenty dollars: nor any imprisonment exceeding twenty-four hours; without the trial by jury, to assess the quantity of such fine, and determine the duration of such imprisonment.

Sect. III. No judge, or justice of the peace, for any contempt offered to him, shall have power to order and inflict, or cause to be inflicted, any fine exceeding the sum of six dollars, nor any imprisonment exceeding six hours. And if any court, judge or justice, shall offend herein, the person or persons so offending, shall be deemed guilty of a misdemeanor in office ; and shall moreover be subject to the action of the party injured, for damages, to be assessed by jury. And in all cases of trial by jury for any contempt, the truth of the matter may be given in evidence by the defendant, on the general issue.

SECT. IV. The foregoing restrictions are not intended, nor shall they be construed to affect cases arising under the militia laws ; nor causes where a party served with process from any court, judge or justice, shall refuse to answer according to law ; or to perform any decree, judgment, or order of the same.

11. SECT. V. The judges of the superior and inferior courts, shall not charge juries with respect to matters of fact, but may state the testimony, and declare the law.

12. SECT. VI. The said territorial judges shall have power, from time to time, to deliver the jails of all persons who now are, or hereafter shall be committed, for treasons, murders, and all other crimes and misdemeanors whatsoever ; and for that end, from time to time, to issue forth such necessary precepts and process and force obedience thereto, as justices of assize, justices of oyer and terminer, and of jail delivery, may or can do within the United States.

SECT. VII. The governor for the time being be and he is hereby authorised and required, by and with the advice and consent of two of the legislative council, as often as it shall be found necessary to issue a commission to the judges of the superior courts of the territory, impowering them, or any two of them, or the judge of the superior court of Washington district alone, in the said district, to hold a court of sessions of the peace, and oyer and terminer, for the trial of offenders, and to hear, try and determine all crimes and misdemeanors, of what nature or kind soever, wherewith such offenders, or any of them, shall stand charged, and to give judgment and award execution thereon.

SECT. VIII. *Repealed December* 22, 1809.

13. SECT. IX. One or more of the said judges shall hold the said circuit courts for the counties aforesaid, respectively, and shall have full jurisdiction therein, of all actions and suits, real, personal and mixed, and causes, matters and things, arising under the constitution and laws of the United States, and ordinances and laws of this territory, and all things that may be cognizable therein, according to the principles and usages of law, and shall have all the power, authority and jurisdiction, in the said counties respectively, of justices of assize, nisi prius, oyer and terminer, and jail delivery. And each term of the said circuit courts may be held for the space of twelve judicial days, if business so long continue, and no longer ; and in the absence of the

judge or judges of any of said circuit courts, the sheriff of the county may adjourn the same from day to day, for the space of four days.

14. SECT. X. If any suit shall be commenced in any court for a less sum than such court can legally take cognizance of, or if any person shall demand a greater sum than is due, on purpose to evade this act, in either case the plaintiff shall be non-suited and pay costs: *Provided always*, That if the plaintiff, or any other person for him, will make an affidavit (to be filed in the clerk's office) that the sum for which the suit shall be brought, is really due, but that for want of proof or that the time limited for the recovery of any article, bars a recovery; then and in that case, such plaintiff shall have a verdict and judgment for what appears to be legally proved; any thing herein to the contrary notwithstanding: *And provided also*, That nothing herein contained shall extend or be construed to extend to suits on bonds, penal bills, or any other action of debt grounded on a penalty, where the balance due on such bond or penal bill, or other action of debt, is not of less value than the sums herein before mentioned, to be limited for bringing suits in the said court.

15. SECT. XI. All civil causes and suits to be instituted for determination before the territorial judges, shall be commenced in the circuit court of the county in which the defendant may be found, or if it be a real action, action of ejectment, or trespass *quare clausum fregit*, then in the county in which the cause of action arose: and all causes and actions so commenced in any circuit court, shall be brought to issue, according to the rules that may be ordained and established for the orderly conducting and management of business in the said courts; and if the said issue be an issue in fact, the same shall be tried by the jurors attending the said circuit court, at the next succeeding term, if there be time for trial thereof, and the same be not continued by order of court; and all causes remaining on the docket of any circuit court, at the rising thereof, shall be continued over of course for trial, at the next succeeding term.

SECT. XII. No freeholder of this territory, shall be sued out of the county of his permanent residence, provided the same be within this territory, unless it be in the actions enumerated in the last section, nor shall any person, who may reside in this territory, be held to bail if sued out of the district or county of his residence and freehold.

16. SECT. XIII. And whereas joint obligors, and other persons against whom a joint cause of action may exist, frequently reside in different districts or counties, so that the same individual process cannot reach both or all such persons, whereby parties having just demands are greatly delayed in prosecuting the same:—For remedy thereof,

Be it enacted, That where any such joint cause of action shall exist, it shall be lawful for the plaintiff in such suit or action, to sue out two or more writs, directed to the sheriffs or other proper officers of the different counties where such defendants or parties jointly chargeable may be found: which process such sheriff or other officer shall execute accordingly, and return to the court from which the same issued, as in other cases; and such writs so issued and returned, shall be filed together, and shall have the same force and effect, and the same proceedings and recovery may be had thereupon, as if one single writ had issued against all the defendants jointly, but it shall be the duty of the clerk issuing such process, or of the attorney, to endorse thereon, that both or all of the said writs are for one and the same cause of action, or otherwise the same shall abate on the plea of the defendant.

Sect. XIV. And whereas it is a rule of common law, that in cases of the death of a joint obligor, the debt can never survive against his heirs, executors or administrators, which rule is frequently injurious and oppressive to the surviving obligors:—To remedy which—

Be it enacted, That from and after the passing of this act, in case of the death of one or more joint obligor or obligors, the joint debt or contract shall and may survive against the heirs, executors and administrators of the deceased obligor or obligors, as well as against the survivor or survivors; and when all the obligors shall die, the debt or contract shall survive against the heirs, executors and administrators, of all the said joint obigors.

Sect. XV. Every joint bond, covenant, bill or promissory note, shall be deemed and construed to have the same effect in law, as a joint and several bond, covenant, bill or promissory note; and it shall be lawful to sue out process and proceed to judgment against any one of the obligors, covenanters or drawers of such bond, covenant, bill or promissory note, in the same manner as if the same were joint and several; any law or usage to the contrary notwithstanding.

17. Sect XVI. All offences against the laws of this territory, committed within the limits of the same, on lands to which the Indian claim has not been extinguished, shall be cognizable in the superior court of the county or district to which the offender may be brought.

18. Sect. XVII. The said courts, and each of them, may grant judgment according to the principles and usages of law, in all cases cognizable before them, and award execution, directed to the sheriff or other proper officer of any county in this territory, which shall be executed and returned according to the commands thereof: *Provided*, That in civil causes, demurrers, points reserved at the trial, cases stated, special verdicts, motions in arrest of judgment and motions for new trials, may, at the discretion of the judge or judges of the circuit court, and shall, at the instance of either party, be heard and determined in the aforesaid supreme court, at their next succeeding term.

19. Sect. XVIII. At each of the said circuit courts, a grand jury of a competent number of good and lawful men of the county for

which such court is held, shall be returned and empannelled agreeably to law, who shall enquire and true presentment make of all crimes, offences and misdemeanors committed in their county: and thereupon, the judge or judges of the said circuit court is or are hereby empowered, authorised and required, to try all offenders so presented, and upon legal conviction by a jury, or on confession of guilt in open court, to proceed to judgment and award execution thereon as the law directs: *Provided*, That the judge or judges of the circuit court may, at his or their discretion, on a point reserved, motion in arrest of judgment, or for a new trial, in any criminal case, respite the judgment or sentence, and reserve such point or motion for the consideration of the supreme court, at their next succeeding term; and in such case the supreme court shall pronounce judgment, sentence or decree, as the law directs, and award execution accordingly.

20. Sect. XIX. A person of skill and probity shall from time to time, be appointed clerk in each of the circuit courts of Wilkinson, Adams, Jefferson and Claiborne, respectively, whose duty it shall be to do and perform all things that appertain to the duties of a clerk of the court to which he is appointed.

Sect. XX. XXI. XXII. XXIII. and XXIV. *Repealed December 22*, 1809.

21. Sect. XXVI.* The judge appointed, or hereafter to be appointed, in pursuance of the act of the Congress of the United States, entitled "An act for the appointment of an additional judge in the Mississippi Territory, and for other purposes," shall have power and authority to hold a superior court in the district of Washington, (including therein the whole county of Washington:) and the said court and the judge thereof, shall have the same power, authority and jurisdiction, in the said district of Washington, as by this act are given to the supreme court, and to the circuit courts of the counties of Wilkinson, Adams, Jefferson and Claiborne, and to the judges thereof in the said counties: *Provided*, That an appeal by writ of error, from the judgment of the said superior court, to the aforesaid supreme court, may be had and obtained, agreeably to the provisions of the aforesaid act of the Congress of the United States: and in the absence of the judge of the said superior court, the sheriff of the county of Washington, may adjourn the same from day to day, for the space of four days. And the said court may be held any number of days not exceeding eighteen.

Sect. XXVII. *Expired.*

Sect. XXVIII. *Repealed.*

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*The district court is abolished, and superior courts in each county established.

22. Sect. XXIX. All writs made returnable to any of the courts of this territory, shall run in the name of the Mississippi Territory of the United States, and bear teste in the name of the first judge or justice of the court from which the same shall issue, except he be the plaintiff or defendant, and then in the name of one of the associate judges or justices; and all process issuing from any court shall bear the teste of the first day of the term next preceding that to which the same shall be made returnable.

23. Sect. XXX. The clerk issuing process shall mark thereon the day on which the same shall be issued, and the sheriff or other officer receiving the same in order to execute, shall in like manner, mark on every process the day on which he shall have received it: and every clerk, sheriff or other officer, neglecting so to do, shall forfeit and pay the sum of two hundred dollars, to be recovered by action of debt in any court of record, having cognizance thereof, with costs, by any person who shall sue for the same.

24. Sect. XXXI. The time of serving and executing writs and processes, returnable into any circuit court, or into the supreme or superior courts aforesaid, shall be as prescribed by the act establishing county courts; and hereafter it shall not be necessary that any declaration or copy thereof accompany such writ or process, but a copy of such writ shall be left with the defendant, at the time of serving, and by the officer serving the same. And it shall be the duty of the clerk, or plaintiff's attorney, to indorse on the back of the writ, the cause of the action, the nature of the specialty, or the other grounds on which the action is founded; and the sheriff, on executing the writ, shall deliver to the defendant, together with a copy of the writ, a copy of the said indorsement.

Sect. XXXII. All writs and other processes, original as well as *mesne*, in civil causes, (*subpœnas* for witnesses excepted, which may be made returnable immediately) shall be returnable on the first day of the term succeeding the issuing of such writs or processes; and if the sheriff or other officer shall neglect to return any process, on the first day of such term, he shall be liable as is usual on the expiration of a rule for the return of the same. Any process, warrant, or precept, issued by any judge, justice or clerk, on any criminal prosecution, on behalf of the government, may be issued at any time, and made returnable on any day of the term.

25. Sect. XXXIII. The defendant in any cause, may plead as many several matters as he may judge necessary to his defence, provided he be not admitted to plead and demur to the whole, and provided also, that no plea of *non est factum* shall be admitted to be pleaded, but when accompanied with an affidavit of its truth.

Sect. XXXIV. No plea in abatement shall be received in any court, except accompanied with an affidavit of the truth of such plea, or the truth of it otherwise appear.

26. Sect. XXXIV. In all other cases, in civil actions, the party in whose favor judgment shall be given, or in case of non-suit, dismission or discontinuance, the defendant shall be entitled to full costs, except when it is or may be otherwise directed by law.

27. Sect XXXV. No summons, writ, declaration, return, process, judgment or other proceedings, in any of the courts of this territory, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively, shall proceed and give judgment, according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects, or want of form, in such writ, declaration or other pleading, return, process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially set down and express, together with his demurrer as the the cause thereof; and the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and want of form, (other than those which the party demurring shall express as aforesaid) or any mistake in the christian-name or sir-name of either party, sum of money, quantity of merchandize, day, month or year in the declaration or pleading, the name, sum, or quantity or time, being right in any part of the record or proceedings, and may at any time, permit either of the parties to amend any defect in the process or pleadings, upon such conditions as the said courts respectively, shall, in their discretion and by their rules, prescribe.

28. Sect. XXXVI. Every person or persons, desirous of suffering a non-suit on trial, shall be barred therefrom, unless he or they do so before the jury retire from the bar ; and no more than two new trials shall be granted in the same cause ; and two non-suits shall be considered equal to a verdict against the party suffering the same.

29. Sect. XXXVII. In all judgments on demurrer, confession, *non sum informatus*, or by default, in actions of debt for a sum certain, the said courts are authorised to issue executions for the sums of such judgments, with such interest by way of damages, as may be legally due, and costs of suit: and in all interlocutory judgments, a writ of enquiry shall be awarded, and such writ of enquiry may be executed at the next succeeding term, and the damages assessed by a jury attending the court in which they were awarded, except they be awarded in the supreme court, then to be executed at the next circuit court in which the suit was instituted.

30. Sect. XXXVIII. No court, nor any proceedings therein, shall be discontinued by the death of any of the judges or justices thereof, or by their non-attendance at any term ; but in such cases, all actions and suits, matters and things depending therein, shall stand continued of course, to the next succeeding term.

31. SECT. XXXIX. When any appeal shall be granted by any court, or any writ of error be directed to the same, the clerk of such court shall immediately make up a full and perfect record of all the proceedings in such cause, and shall, on the application of either of the parties, give an attested copy of such record, with a taxation of all costs which have accrued, to the appellant or plaintiff in error, if required; and shall indorse on such copy, the day or days, on which the same may have been demanded, and the day on which it shall be delivered, and sign his name as clerk thereto: and if by reason of the delay of any clerk, any transcript shall not be filed in time, or that the record is so erroneously or incorrectly made up, that the superior or supreme court cannot proceed thereon; such clerk shall, in either of the said cases, upon trial and conviction, be adjudged guilty of a misbehaviour in office, and shall forfeit and pay to the person entitled to such attested copy, the sum of two hundred dollars, to be recovered by action of debt in any court having cognizance thereof, and shall be farther liable to an action on the case for all damages which such person may sustain for want of such copy: *Provided always*, That if the judge or judges of the superior or supreme court, should be of opinion that there appears to be sufficient matter of substance in the transcript of the record and proceedings on any appeal or writ of error to enable them to proceed thereon, the same shall not be dismissed for want of form; any thing herein contained to the contrary notwithstanding.

SECT. XL. The clerk of any superior court, upon receiving a transcript of the record and proceedings in any suit, on which an appeal shall be made or writ of error allowed, shall give a receipt to the person delivering the same, and shall immediately endorse thereon the day on which it shall be delivered; and if he receive it fifteen days before the commencement of the term of the then next superior court of which he is clerk, he shall enter it upon the docket of causes for trial, and deliver to the parties such summonses for their witnesses as they may require: but if such transcript be not delivered to such clerk, before fifteen days previous to the next succeeding term, then the clerk shall enter the cause on the reference docket of such court. And if the clerk of any superior court shall refuse, neglect or omit to do any of the duties which he is hereby required to perform, such clerk shall, upon trial and conviction, be deemed guilty of a misbehaviour in office, and shall forfeit and pay to the appellant or plaintiff in error, two hundred dollars, to be recovered by action of debt in any court having cognizance thereof, and be farther liable to an action on the case, for all damages which such appellant or plaintiff in error may sustain by reason of such refusal, neglect or omission.

32. SECT. XLI. When in any county or circuit court, or in the superior court of Washington district, judgment upon a verdict in a civil action shall be entered; execution may, on the motion of either

party, at the discretion of the court, and on such conditions for the security of the adverse party as they may judge proper, be stayed thirty days from the time of entering judgment, in any county or circuit court, and forty days in the superior court of Washington district to give time to the party making such motion, to apply for a writ of error.

33. SECT. XLII. The said supreme court, and the said superior court for the district of Washington, may ordain and establish all necessary rules, respecting the granting, issuing, returning and hearing of writs of error, so that no writ of error shall be a *supersedeas* nor any *supersedeas* be granted of any judgment in civil cases, unless the plaintiff or plaintiffs in error, first enter into bond with good and sufficient security to the adverse party, conditioned for the payment of the said judgment, damages, interest and costs, in case such judgment shall be affirmed, and also for performing the sentence, judgment or decree, which the supreme or superior court may render therein : and the supreme or superior court shall render such judgment or decree therein as the inferior court ought to have done, and award execution accordingly.

34. SECT. XLIII. The said supreme court, and the said superior court for the district of Washington, shall also be and act as courts in chancery in the said counties of Wilkinson, Adams, Jefferson and Claiborne, and in the district of Washington respectively ; and shall have and exercise all the power, authority and jurisdiction incident to courts of chancery, and may ordain and establish all necessary rules for the orderly conducting of business in equity, and for hearing and taking orders on interlocutory matters in vacation. And the clerks of the said courts shall keep the rolls, records and proceedings in equity, separate and distinct from the proceedings in law in the said courts.

SECT. XLIV. The said courts of chancery may direct an issue in fact to be tried, whenever they judge it necessary : and such issue shall be tried in the same manner, and by the same jury, and the same mode of proceeding observed in the trial thereof, in every respect, as if it were an issue in fact, joined in a suit in law in the same court.

SECT. XLV. Each of the territorial judges shall have power and authority to issue writs of injunction and *ne exeat*, when the case may require it : but every person shall be discharged from a writ of *ne exeat*, on giving good and sufficient security : and for that purpose the judge or court granting such writ shall indorse thereon the sum and number of securities required.

SECT. XLVI. The said courts sitting in chancery, shall have power and authority to order and issue all process, as hath usually belonged to courts of chancery : and in cases where decrees shall be passed for a sum of money, it shall be lawful for execution to issue thereon against the defendant's goods and chattels, lands and tenements, or against the defendant's body, to satisfy such decree and costs in like manner and with the same force and effect, as executions may issue on judgments obtained at law in the supreme court of this territory.

Sect. XLVII. *Repealed December* 18, 1811.

Sect. XLVIII. Costs in equity shall be paid by either party, at the discretion of the court.

Sect. XLIX. *Repealed December* 24, 1812.

35. **Sect. L.** It shall be the duty of every clerk of the several courts in this territory, within three months after the final determination of any suit or prosecution, to make up and enter in well bound books, to be kept by him for that purpose, a full and complete record of all the proceedings in such suit or prosecution: and every clerk who shall fail to make and enter a record as aforesaid, shall forfeit and pay the sum of twenty dollars, to be recovered before any court having jurisdiction thereof, and applied to the use of the territory. And in order to secure a due execution of the duty hereby required, the several parties to the suits or prosecutions, shall at all times have a right to inspect the said books and records of the court, in the presence of the clerk, in order to see if the records of the suit to which he is a party, hath been duly made up according to the directions of this act: and the clerks shall shew the said books and records accordingly, under the penalty of fifty dollars, to be recovered and appropriated to the use of the party so applying and refused.

ACT of February 10, 1807. (Dig. p. 127.)

36. **Sect. I.** Every poor person who shall have cause of action against any person within this territory, shall have by the discretion of the court before whom, writ or writs original and writs of *subpœna*, according to the nature of his cause, nothing paying for the same: and that the said court shall direct their clerk to issue the necessary process—shall assign to him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit, who shall do their duties without any reward for their counsels, help and business in the same.

Sect. II. In every case, where persons who are within age may sue; their next friends shall be admitted to sue for them.

ACT of February 10, 1807. (Dig. p. 136.)

Sect. I. *Repealed* 18*th December*, 1811.

37. **Sect. II.** Every person unlawfully held to bail, may be discharged therefrom, on motion to the court, into which the writ is made

returnable, and filing common bail. And in every action wherein bail is required, the process may be by *capias ad respondendum*, and it shall be endorsed thereon by the clerk, or plaintiff's attorney, that "no bail is required," to which an appearance may be effected by filing common bail. And when any writ shall issue from any of the said courts, whereupon bail is required, the sheriff or other officer, to whomsoever the same may be directed, shall take a bail-bond with sufficent security or securities, in the penalty of double the sum for which bail is required by the endorsement on such writ; which said bond the sheriff or other officer shall return with such writ. And in case the sheriff or other officer neglect to take such bond, or the bail returned shall be held insufficient, on exception taken and entered the same term to which such writ shall be made returnable, the sheriff or other officer having due notice of taking such exception, shall in either case be deemed and stand as special bail; and the plaintiff may proceed to judgment against such sheriff or other officer, as in other cases against special bail.

38. SECT. III. All bail bonds, returned to any of the said courts, shall be assigned by the sheriff, or other officer, returning the same, by indorsement thereon, in the following form, to wit:—"I, A. B. sheriff (or coroner, as the case may be) of the county of ——, do hereby assign the within obligation and condition to C. D. his executors and administrators, to be sued for according to the statute in such cases made and provided. In witness whereof I have hereunto set my hand and seal, this — day of ——, in the year of our Lord ———." And any sheriff or other officer, failing to make such assignment, shall be deemed and held as special bail, in the same manner as if no bail had been taken.

39. SECT. IV. Where any sheriff shall return, that he hath taken the body of any defendant, and committed him to the prison of the county in which the arrest was made, which is hereby declared to be the proper prison for confinement, the plaintiff may enter the defendant's appearance; and he shall be at liberty to plead as if such appearance had been entered by himself; and the plaintiff may proceed to judgment as in other cases. Nevertheless the defendant shall not be discharged out of custody, but by putting in bail, or by rule of court, or special order of one of the territorial judges.

40. SECT. V. The bail shall have liberty at any time before final judgment obtained against him to surrender to the court from which the process issued, or to the sheriff returning such process, during the sitting of such court, or to the sheriff in the recess of such court, the principal in discharge of himself; and such bail, shall at any time before such judgment, have full power and authority to arrest the body of his principal, and secure him, until he shall have an opportunity to surrender him to the sheriff, who made the arrest, or his successor in office, or to the court to which the process was returnable. And such

sheriff is hereby required to receive such surrender, and hold the body of the defendant in custody as if bail had never been given.

41. Sect. VI. It shall be lawful for any defendant in an action where special bail is required, to go before any one of the territorial judges, or a justice of the peace for the county wherein the suit was originated, to take recognizances of special bail in the following form, to wit: "Be it known, that on the —— day of ——, in the year of our Lord "——, came A. B. before me, C. D. a justice of the peace in and "for the county of E. and undertook in the behalf of F. G. to be his "specail bail in an action of ——, now depending in the court of the "said county of E. wherein H. I. is plaintiff, and the said F. G. de"fendant. And in case the said F. G. should be cast in the action, he "shall pay and satisfy the condemnation of the court, or surrender his "body in custody; or that he the said A. B. will do it for him. Given "under my hand and seal, the day and year above written. C. D." Which recognizance of special bail shall be filed in the clerk's office, amongst the papers in the suit to which it has reference. But the plaintiff may object to the sufficiency of the bail at the succeeding court, of which objection the defendant shall have ten days notice, previous to the day on which such objection is intended to be made: *Provided*, The recognizance of bail be filed fifteen days before the court, at which such objection should be made. And if the court shall be of opinion, that the bail is not sufficient, the suit shall remain in the same situation as if no such recognizance had been filed.

42. Sect. VII. All bail taken according to the directions of this act, shall be deemed, held and taken as special bail, and as such be liable to the recovery of the plaintiff. But the plaintiff shall not proceed against such bail until execution hath been returned, that the defendant is not to be found in his proper county, when the plaintiff may proceed against such bail, as is usual to proceed against special bail in other cases. And the bail shall have liberty at any time before the return of the first *scire facias* against them, returned *scire feci*, or of the second returned *nihil*, to render the principal in discharge of his bail, on payment of costs, however, in either case of such *scire facias*. And such render, if made in term time shall be to the court from whence the process issued, and if in the recess of such court, to the officer who made the arrest; which officer is hereby required to receive such render, and execute to the bail a certificate thereof; and hold the body of the defendant in custody, as if no bail had been taken. And such render and commitment, duly certified to the clerk, in vacation, or entry of render, in open court, in term time, and in either case, notice thereof given to the plaintiff, or his attorney, shall discharge the bail. And the bail shall have full power and authority to arrest the body of the principal, and secure him, to enable them to render him as aforesaid: *Provided, however*, That if such render be made before final judgment against the principal, the court or sheriff, to whichsoever such render shall be made, are hereby authorised to

take the defendant's recognizance of special bail, with such other sufficient bail as he may offer; and if taken by the sheriff, he shall file the same in the court where the suit is depending, on the first day of the next term; and the bail therein shall be liable to exception in the same manner as bail in the original bail bond. And the bail shall have the same privileges, and be subjected to a recovery in the same manner.

Sect. VIII. When any *scire facias* shall by the proper officer be returned to have been made known to the bail; and they in consequence thereof shall appear, they shall be obliged to plead, and the issue shall be tried the same term to which the process shall be returned; unless sufficient cause be shewn to the court to the contrary; but the bail shall not be admitted to plead *non est factum*, unless they first file an affidavit of the truth of their plea: *Provided nevertheless*, That if any sheriff shall return on any *scire facias*, to him directed, that the principal is imprisoned by virtue of any process, civil or criminal, the court to which such *scire facias* is returnable, shall, on motion of the plaintiff or bail, order and direct that such principal be retained where he shall be a prisoner, until the plaintiff's judgment and costs be satisfied; or he, or she, otherwise discharged by due course of law; a copy of which order being served on the keeper of such prison, before such prisoner's releasement, shall be sufficient authority for him to retain such prisoner, until such order be complied with, and shall be deemed a surrender of the principal, and a discharge of the bail.

ACT of February 10, 1807. (Dig. p. 142.)

43. Sect. I. When any writ shall issue from any of the courts of this territory, whereby any sheriff or other officer shall be commanded to take the body of any person to answer to any civil action in any of the said courts, and the sheriff shall return, that the defendant is not to be found within his county, the plaintiff may at his election sue out an attachment against the personal estate of such defendant, or an *alias* or *pluries capias*, returnable in the same manner as original process.—And if the sheriff shall return any goods by him attached, and the defendant shall fail to appear and plead within the time herein directed, the plaintiff shall be entitled, if in an action of debt, to final judgment, and if in an action on the case, to an interlocutory judgment; and may execute a writ of enquiry the next succeeding term. And the goods so attached, if not replevied or sold, according to the rules hereinafter prescribed for goods taken on original attachments, shall remain in the custody of the sheriff until final judgment; and then be disposed of in the same manner as goods taken by execution on a writ of *fieri facias*. And if the judgment shall not be satisfied by the goods attached, the plaintiff may have execution for the residue.

Sect. II. If any complaint be made upon oath, to any of the territorial judges, or to any justice of the county courts, by any person or persons, his, her, or their attorney, agent or factor, that any person hath removed, or is removing him or herself, out of the county privately; or so absconds or conceals him or herself, that the ordinary process of law cannot be served on such debtor, and if such plaintiff, his or her attorney, agent or factor, shall swear to the amount of his or her debt or demand, to the best of his or her knowledge and belief, after deducting all off-sets and discounts due to the defendant, and shall produce a regular statement of his account current or demand and swear to the same, it shall be lawful for such judge or justice, and he is hereby empowered and required to grant an attachment against the estate of such debtor, wherever the same may be found, or in the hands of any person or persons indebted to, or having any of the effects of the defendant, or so much thereof as shall be of value sufficient to satisfy the debt or demand, and costs of such complaint: which attachment shall be returned to the court where the suit is cognizable, and shall be deemed the leading process in such action. And the same proceedings shall be had thereon as on judicial attachments.

44. Sect. III. The person or persons whose goods or effects are so attached, shall be called the defendant in the attachment; and the person in whose hands or possession the same goods or effects are so attached, shall be called the garnishee, and shall be obliged to appear in court at the return of the attachment, and answer what shall be objected against him, and abide the judgment of court; and shall be allowed out of the effects attached, reasonable satisfaction for his attendance.

45. Sect. IV. The manner of executing writs shall be by the officers going to the house, or to the person in whose hands or possession the defendant's goods or effects are supposed to be; and then and there declare, in the presence of one or more credible persons of the neighborhood, that he attacheth the same goods or other effects. From and after which declaration, the goods, money, or effects so attached shall remain in the officer's power, and be by him secured, in order to answer and abide the judgment of court in that case, unless the garnishee will give security for the same.

Sect. V. Every judge or justice, before granting any original attachment, shall take bond and security from the party for whom the same shall be issued, his or her attorney, agent or factor, payable to the defendant, in double the sum for which the complaint shall be made, conditioned for satisfying all costs which shall be awarded to such defendant, in case the plaintiff shall be cast in suit; and also all damages which shall be recovered against the plaintiff in any such suit or suits, which may be brought against him for wrongfully suing out such attachment; which bond, together with the affidavit of the party complaining, subscribed with his proper name, shall be returned by the justice, taking the same to the court to which the attachment is returnable. Every attachment issued without bond and affidavit, taken and returned as aforesaid, shall be abated on the plea of the defendant.

46. Sect. VI. And for the ease and convenience of creditors and others, who may be injured as aforesaid, *Be it enacted*, That it shall and may be lawful for any justice of the county courts, upon complaint made to him by any person, or persons, as aforesaid, to issue attachments under the rules and regulations before mentioned; and make the same returnable to any of the said courts, where the same is cognizable.

47. Sect. VII. When any person, who shall be an inhabitant of any other government, so that he cannot personally be served with process, shall be indebted to any person, a resident of this territory, and hath any estate within the same, any of the said judges or justices may grant an attachment against the estate of such foreign person, under the rules, restrictions and regulations before mentioned; and the same proceedings may be had thereon.

And if such inhabitant of any other government have no goods nor chattels within this territory, but have lands within it, the sheriff shall execute such attachment upon his lands and tenements, agreeably to the provisions of the act concerning executions.

And in case of the death of any debtor, residing out of the limits of this territory, having lands, or other property therein, the creditor resident within the territory, shall in like manner, be entitled to recover by attachment, against the executors and administrators; and execution shall issue accordingly against the property so left within the government.

Sect. VIII. When two or more persons, not residing in this territory, are jointly indebted, either as joint obligors, partners, or otherwise, then the writ, or writs of attachment shall and may be issued against the separate and joint estate of such joint debtors, or any of them, either by their proper names, or by or in the name or style of the partnership, or by whatever other name or names such joint debtors shall be generally reputed, known or distinguished within this territory; or against the heirs, executors or administrators of them, or either or any of them. And the lands, tenements, goods, chattels and effects, rights and credits of such debtors, or either or any of them, shall be liable to be seized and taken, for the satisfaction of any just debt or other demand, and may be sold to satisfy the same.

Sect. IX. In all suits commenced or prosecuted by attachment against the estate of persons residing out of this territory, the court to which the same shall be brought, shall stay all proceedings in such suit for so long time as they may think necessary; not less than six months, nor exceeding one year, from the time of the return of such process. And when it can be conveniently done, notice shall issue from the court to the defendant, by post or other conveyance; to be inserted in the public papers of one or more of the states. And if the defendant appear, put in bail, and plead within the time limited for his or her appearance in such case, his estate so attached, shall be liberated; and the garnishee or garnishees, if any, discharged. And it shall be lawful for the jury, in case of such non-residents, who shall be notified as aforesaid, to give in damages, legal interest upon the plaintiff's recovery, during the time of such extraordinary continuances.

48. Sect. X. And to prevent errors in issuing attachments and taking bonds thereupon, *Be it enacted,* That the attachment shall be in the following form, viz:

"Mississippi Territory,

"*To the Sheriff of county*—Greeting:

"Whereas A. B. (or A. B. attorney, agent, or factor, as the case may be, of C. D.) hath complained on oath, to esq. judge of the court of (or justice of the county court of) that E. F. is justly indebted to him (or to the said A. B.) to the amount of : and oath having been also made, that the said E. F. hath removed, or is about to remove himself out of your county, or so absconds or conceals himself, that the ordinary process of law cannot be served upon him, (or is an inhabitant of another government, if the case is so) and the said having given bond and security, according to the directions of the act in such cases made and provided. We therefore command you, that you attach the estate of the said E. F. if to be found in your county, or so much thereof (repleviable or security) as shall be of value sufficient to satisfy the said debt and costs, according to the complaint; and such estate so attached, in your hands to secure, or so to provide, that the same may be liable to further proceedings thereupon; to be had at the court to be held for ———, at ———, upon the — day of ——— next; so as to compel the said E. F. to appear and answer the above complaint of the said ———; when and where you shall make known to the said court how you have executed this writ. Witness , esquire, judge or justice of the said court, at , the day of , in the year of our Lord , and of American Independence the ."

Which attachment shall be signed and sealed by the judge or justice, granting the same. And the bond to be given on obtaining such attachment, shall be in the following form, viz:

"Know all men by these presents, that we and all of the county of (as the case may be) are held and firmly bound unto , in the sum of , to be paid to said , his certain attorney, executors, administrators, or assigns. For which payment, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors or administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated the day of in the year of our Lord

The condition of the obligation is such, that whereas the above bounden hath the day of the date hereof prayed an attachment at the suit of , against the estate of the above named , for the sum of , and hath obtained the same; returnable to the court of to be held at , on the day of next. Now if the said shall prosecute his said suit with effect, or in case he fail therein, shall well and truly pay and satisfy to the said all such costs and damages as shall be awarded and recovered against the said , his heirs, executors or administrators, in any suit or suits which may be hereafter brought, for wrongfully suing out the said attachment: then the above obligation to be void; otherwise to remain in full force and effect.

Provided nevertheless, That no attachment shall be abated for want of form, if the essential matters expressed in the foregoing precedent be set forth in such attachment.

49. Sect. XI. When any estate attached, shall by three justices of the county court, to be summoned by the sheriff for that purpose, be certified on oath to be in danger of immediate waste and decay, and if the person or persons to whom it belongs, his, her, or their attorney, agent or factor, shall not within twenty days after serving such attachment, replevy the same, then such estate shall be sold at public vendue, by the sheriff or other officer; he having first advertised such sale at the court-house, and other public places in his county, at least ten days before the sale. And the money arising by such sale, shall be liable to the judgment obtained upon such attachment, and deposited in the hands of the clerk of the court, to which the process shall be returnable, there to wait the event of such judgment.

50. Sect. XII. When the sheriff or other officer shall serve an attachment in the hands of any person or persons, supposed to be indebted to, or supposed to have any of the effects of the party absconding or residing out of this government; he shall at the same time, summons such person or persons, as a garnishee or garnishees in writing, to appear at the court to which the attachment shall be returnable, within the first four days of the first term thereof, there to answer upon oath, what he or she is indebted to the defendant, and what effects of the defendant he or she hath in his or her hands, and had at the time of serving such attachments; what effects or debts of the defendant there are in the hands of any other, and what person, to his or her knowledge or belief.

And where any attachment shall be served in the hands of any garnishee in manner aforesaid, it shall be lawful, upon his or her appearance and examination, to enter up judgment, and award execution against any such garnishee, for all sums of money due to the defendant, from him or her; and for all effects and estate of any kind, belonging to the defendant, in his or her possession or custody, for the use of the plaintiff; or so much thereof as shall be sufficient to satisfy the debt and costs, and all charges incident in levying the same; and all goods and effects whatsoever in the hands of any garnishee or garnishees, belonging to any defendant, shall be liable to satisfy the plaintiff's judgment, and shall be delivered to the sheriff or other officer serving the attachment.

Sect. XIII. Where any garnishee shall be returned by the sheriff or other officer summoned in manner aforesaid, and shall fail to appear and discover on oath, as by this act is directed, it shall be lawful for the court, after solemnly calling the garnishee; and such court is hereby authorised and required, to enter a conditional judgment against such garnishee, and upon such so entered, a *scire facias* shall issue against such garnishee, returnable the next term, to shew cause, if any he hath, why final judgment should not be entered against him. And upon such *scire facias* being duly executed and returned, if such garnishee shall fail to appear at the next term, and discover on oath, in manner aforesaid, the court shall confirm such judgment, and award execution for the plaintiff's whole judgment and cost; and if upon the examination of any garnishee, it shall appear to the court, that there is any of the defendant's estate in the hands of any person or persons, who have not been summoned; such court shall upon motion of the plaintiff, grant a judicial attachment to be levied in the hands of such person or persons having any of the estate of the defendant in his, her or their custody or possession; who shall appear, and answer and be liable as other garnishees.

51. Sect. XIV. It shall be lawful for any person against whose estate any attachment hath issued as aforesaid, his or her attorney, agent or factor, at any time before final judgment entered, or writ of enquiry executed, upon giving special bail to replevy the estate so attached, and plead to issue, so that the plaintiff is not thereby delayed of his trial: *Provided always*, That no judicial process shall be issued against the estate of any person residing out of the limits of this territory, unless such process is grounded on an original attachment; or unless the leading process in the suit has been executed on the person of the defendant when within the territory.

Sect. XV. After judgment obtained by the plaintiff upon any attachment against non-residents, the plaintiff shall, before sales, and after execution is awarded, find security; who shall undertake for the plaintiff—That if the defendant in the attachment shall, within a year and a day next following, by himself or attorney, come into court, and disprove or avoid the debt recovered by the plaintiff against him, or shall discharge the same with costs, that then the plaintiff shall restore to the defendant, the goods or effects, or value thereof, by the plaintiff attached and condemned: or so much thereof as shall be disproved or discharged; or else they shall, and will do it for him.

52. Sect. XVI. If the defendant in any suit in equity, against whom *subpæna* or other process may issue, shall not cause an appearance to be entered within such time, and in such manner, as by the rules of the court the same ought to have been entered, in case such

subpæna or other process had been duly served, and affidavit being made, that such defendant resides beyond the limits of the territory; or that upon enquiry at his usual place of abode, he could not be found so as to be served with such process; and that there is just cause to believe that such defendant is gone out of the limits of the territory or otherwise absconded, to avoid being served with such *supæna* or other process; then in either case, the court may make an order directing such defendant to appear at a certain day therein named. A copy of which order shall be published within forty days thereafter, in some gazette, regularly published in this territory; for such space of time as the court shall direct; and shall within the time aforesaid be posted up at the door of the court-house, where made. And said court may at their discretion, direct such order to be published in any gazette in the United States; and for such space of time as they may deem reasonable. And if the defendant do not appear within the time limited by such order; or within such further time as the court shall appoint; then, on due proof of publication as aforesaid, the court may order the plaintiff's bill to be taken *pro confesso*, and make decree thereon, and carry such decree into full effect as in other cases. *Provided*, that proceedings in equity against absent defendants, and decrees made on such proceedings, shall be subject to the restrictions, limitations and provisos hereinafter mentioned.

Sect. XVII. The complainant shall, before obtaining any decree by virtue of the foregoing section of this act, give good and sufficient security, in such sum as the court may direct; to abide such order, touching the restitution of the estate or effects, to be affected by such decree as the court may make concerning the same, on the appearance and petition of the defendant, to have said cause re-heard. And if any decree shall be made in pursuance of this act, against a person residing beyond the limits of the territory, at the time of pronouncing such decree—and such person shall within two yers after making the same, reside within the territory, or become publicly visible therein; then such defendant shall be served with a copy of such decree in a reasonable time, after such residence or public appearance shall be known to the complainant; and in case such defendant depart this life within two years after making such decree, and before the service of such copy, then if the heir of such defendant shall have any real estate, whereof possession shall have been given to the complainant, and such heir may be found; or if such heir be a *feme covert*, infant or person *non compos mentis*, the husband or guardian of such heir, or if the personal estate of such defendant shall have been levied on, or possession thereof given to the complainant, then the executor or administrator, if any such there be, shall be served with a copy of such decree, within a reasonable time after the death of the defendant, and his heirs, executors or administrators, in this territory, shall be known to the complainant.

Sect. XVIII. If any person, or persons, served with a copy of such decree, shall not within twelve months thereafter, appear and petition to have the cause reheard; such decree made as aforesaid, shall stand absolutely confirmed against the person or persons served with a copy as aforesaid, his, her, or their heirs, executors or administrators, and all persons claiming under him, her or them, by virtue of any act, done after the commencement of the suit.

SECT. XIX. If any person served with a copy of such decree as aforesaid, shall, within twelve months thereafter, or if any person not so served, shall within three years after pronouncing such decree, appear and petition to be heard, touching the matter of such decree, and pay the costs of suit, such person or persons, his, her, or their representative, or any person claiming under him, her, or them, by virtue of any act done before the commencement of the suit, may be admitted to answer the bill, and such proceedings had as if no decree had passed.

SECT. XX. If any person or persons, against whom such decree shall be made, his, her, or their heirs, executors or administrators, shall not within three years next after making such decree, appear and petition to have such cause reheard, and pay costs of suit as aforesaid, such decree made as aforesaid, shall stand absolutely confirmed against the defendant or defendants, his, her, or their heirs, executors and administrators; and against all persons claiming or to claim by, from or under him, her or them, or any of them, by virtue of any act done, or to be done, subsequent to the commencement of such suit: *Provided*, This act shall not be construed as to authorise proceedings against persons residing out of the territory, unless the ground or cause of action, or the transaction on which the bill may be brought, took place within the territory.

ACT of February 10, 1807. (Dig. p. 151.)

53. SECT. I. For taking the testimony of witnesses, in all causes, which may be depending in any of the courts of this territory, the following rules shall be observed and put in practice, to wit: In all suits where witnesses are to appear at any of the said courts, the clerk, at the request of the party, shall issue a *subpæna*, directed to the sheriff or other officer of the county where such witness or witnesses are said to reside: mentioning the time and place for his, her, or their appearance; the names of the parties to the suit wherein the testimony is to be given; and the party at whose instance such witness or witnesses is or are summoned.

Every *subpæna* made returnable immediately, shall be issued only in term time, and shall be personally served on the witness or witnesses, therein named.

A copy of every *subpæna*, issued by the clerk in the vacation, in case the witness or witnesses therein named, is, or are not to be found may be left at their usual places of residence: and such copy certified by the sheriff or other officer, left as aforesaid, shall be deemed a legal summons; and the person or persons therein named, shall be bound to appear in the same manner as if personally summoned.

54. Sect. II. Every witness, being summoned to appear at any of the said courts, in manner as herein before directed, shall appear accordingly, and continue to attend from term to term, until discharged by the court, or the party, at whose instance such witness shall be summoned—And it shall so happen, that the suit so depending, shall in the vacation be accommodated and settled by the parties; and the party at whose instance such witness was summoned, shall neglect or omit to discharge him or her from further attendance: and he or she for want of such discharge, shall attend at the next term: then and in that case, the witness, upon oath made of the facts, shall be entitled to a ticket from the clerk in the same manner as other witnesses: and shall receive from the party, at whose instance he was summoned, the same allowance, which by this act is given to witnesses for their attendance at the said court, with costs.

Sect. III. If any person, duly summoned as a witness, shall fail to appear and attend as herein required, he shall pay to the party at whose instance the *subpœna* issued, the sum of one hundred dollars; to be recovered by *scire facias*, with costs: and shall be further liable to the action of such party for the full damages which may be sustained for want of such witness' testimony: *Provided, always*, That if sufficient couse be shewn by the person so summoned and failing to appear, of his or her incapacity to attend at the time and place mentioned in the *subpœna*, then no forfeiture or penalty shall be incurred by such failure.

Sect. IV. Every witness being summoned to appear in any of said courts on a criminal prosecution, or plea of the territory, shall appear accordingly, and continue to attend from day to day, until discharged by the court, the attorney for the territory, or the party, at whose instance he shall be summoned: and in default thereof shall forfeit and pay the sum of one hundred dollars, for the use of the territory, or the party summoning him; as the case may be: unless, on or before the return of a *scire facias* made known, sufficient cause be shewn for such failure.

55. Sect. V. If any person, who shall be summoned as a witness in any of the said courts, or before any person appointed to take depositions as aforesaid, shall refuse to give testimony on oath; such person so refusing, shall by the court, or by the commissioners, before whom he or she shall be summoned, be committed to the common prison; there to remain without bail or mainprize, until he or she shall be willing to give testimony in such manner as the law doth or may direct.

56. Sect. VI. During the attendance of any person, summoned to attend as a witness in any court whatsoever, and during the time that such person is going to, and returning from the place of such attendance; allowing one day for every twenty-five miles such witness has

to travel from, and return to his place of residence, no sheriff or other officer shall serve or execute on any person so attending, going to, or returning from such court, any writ or process, warrant, order, judgment or decree in any cause (summons for witness excepted :) and if any such be executed, the service thereof shall be, and is hereby declared null and void.

57. Sect. VII. For every mile any witness shall travel, either going to, or comeing from the court, to which such witness shall be summoned to appear, there shall be paid to him by the party, at whose instance the *subpœna* shall have issued, four cents per mile, together with the necessary ferriages : and one dollar per day for every day he shall attend, until he shall have given testimony, or shall be discharged ; *Provided*, That in any bill of costs, there shall not be allowed the charges of attendance of more than two witnesses to any one matter of fact. And the attendauce of the witnesses as to the number of days, shall be ascertained by the oath of the witnesses : to be made at the court at which the cause is determined ; or within five days after ; before the clerk of the said court ; who shall grant certificates of the same, after the termination of the suit : *Provided also*, That if any witness shall hereafter swear falsely, in order to obtain a ticket, he shall, upon conviction, be adjudged guilty of perjury, and suffer as in cases of corrupt and wiful perjury.

58. Sect. VIII. All witnesses appearing in behalf of the territory in any criminal prosecution, shall be allowed the same compensation for their daily attendance as is allowed to witnesses attending upon civil prosecutions : and such fees for attendance, together with all costs of the prosecution, shall be paid by the defendant upon conviction—And if the territory shall fail upon the prosecution of any offence of an inferior nature, the court may, at their discretion, order the costs to be paid by the prosecutor, in case such prosecution shall appear to have been frivolous or malicious ; and in case the defendant shall not be able to pay costs, or the court shall not think fit to order the prosecutor to pay the same ; that then, and in that case, the clerk of the court, wherein the matter may have been pending, shall grant a certificate of attendance for the witnesses of the territory, in manner as tickets are granted to jurors ; and such tickets may be received by the sheriffs in payment of public dues.

59. Sect. IX. All negroes, mulattœs, Indians, and all persons of mixed blood, descended from negro, or Indian ancestors, to the third generation, inclusive ; though one ancestor of each generation may have been a white person ; whether bond or free, shall be taken and deemed to be incapable in law, to be witnesses in any case whatsoever except for and against each other.

60. Sect. X. The liberty of giving testimony by way of solemn affirmation shall be admitted in all cases whatsoever, criminal as well as civil.

61. Sect. XI. When a person, who may be a witness in any cause in any of the said courts, shall reside out of this territory ; or shall by reason of age or bodily infirmity, or any other cause, be incapable of attending, to give his or her testimony in court ; oath thereof being made to any judge, justice, or clerk of the court, wherein such suit is depending, such judge, justice, or clerk is hereby empowered to issue or order the clerk of the court, wherein such cause is depending, to issue a commission to one or more persons, to take and receive the deposition of such witness : which being duly taken and returned, as hereinafter directed, shall be received as legal testimony. *Provided also*, That the party praying such commission, shall give such notice to the adverse party of the time and place, when and where such commission is to be executed, as the court, judge, justice or clerk shall think proper : and the adverse party shall have liberty to cross examine any witness, whose deposition shall be so taken.

Sect. XII. If any person, who may be a witness in any cause, depending in any of the said courts, shall be under the necessity of leaving this territory before such cause is to be tried, or even before it be at issue, upon oath thereof being made before any judge or justice of the court, wherein the cause is depending : such judge or justice is hereby empowered to take the deposition of such witness, provided it shall appear by the oath of an indifferent person that sufficient notice of the time and place of such application has been given to the opposite party ; or such judge or justice may order the clerk of the court, wherein such cause is depending, to issue a commission to one or more persons, to take the deposition of such witness : such notice being first given to the adverse party of the time and place, when and where such deposition is to be taken ; as the judge or justice, awarding such commission, shall direct ; which deposition, when returned, taken in manner aforesaid, shall be received as legal evidence.

Sect. XIII. In any case, depending as aforesaid, either party wishing to improve the testimony of witnesses absent from the territory, may take the same by interrogatories, the party making oath before any one of the judges, justices, or clerk of the court, where such cause is depending, of the absence of such witness ; and that he believes his testimony material : such judge, justice or clerk may, if the oath be taken before the clerk, issue, or if it be taken before a judge or justice may order the clerk of the court, in which such cause is depending, to issue a commission as aforesaid, directing the commissioner or commissioners to call the witness or witnesses, before him or them, at a time and place, by him or them to be appointed. But the party applying for such *dedimus*, shall file his interrogatories in the clerk's office, and serve the opposite party with a copy thereof ; with notice of the day on which such *dedimus* will issue ; at least ten days before the same shall issue ; in which time the opposite party may file his cross interrogatories ; and the interrogatories, and cross interrogatories, if any there be, shall accompany such *dedimus* ; and if any deposition taken by interrogatories, shall contain any testimony but the answers to such interrogatories, such surplusage shall not be read in evidence.

Sect. XIV. All depositions shall be considered as taken *de bene esse*.

ACT of February 6, 1807. (Dig. p. 170.)

62. Sect. VI. When any demurrer to evidence, demurrer to the declaration or plea in any cause depending before the several courts in this territory, shall appear frivolous, and intended for delay, it shall be lawful for the court, where the cause is depending, to reject such demurrer or motion and proceed to trial as if the same had not been offered.

63. Sect. IX. When any process shall issue from any of the courts of this territory, by the directions of any attorney, for any person or persons residing within the same, the person or persons suing for such process, or prosecuting such suit, at the return of such process, or at any time thereafter when required, shall upon motion, be ruled to give sufficient security for all cost accruing in such action or suit; and if such attorney shall fail to give such security, being thereto required, the suit shall be in fact dismissed, and execution may issue against such attorney, for all such costs.

64. Sect. XII. A special session of any circuit or superior court, may be held by order of the judge or judges of the same, whenever it may be necessary for the trial of criminal causes.

ACT of February 10, 1807. (Dig. p. 173.)

Sect. I. *Repealed December* 7, 1811.

65. Sect. II. No person, under the age of twenty-one years, or above the age of sixty, nor any person continually sick, or who may be diseased at the time of the summons, or any person who has been convicted of any felony, perjury, forgery, cheat, or conspiracy, or offence, shall be summoned on a jury.

66. Sect. III. It shall be lawful for the court to fine any talesmen, who being present when they are called, do not appear in court; or who after appearance, wilfully withdraw themselves during the same day.

67. Sect. IV. When any special court for the trial of criminal causes is about to be held, it shall be the duty of the clerk of such court, to issue a precept to the sheriff, to return the same number of jurors as are required for such court at its ordinary session; and the sheriff shall draw them by lot, as in other cases, except that he shall

take a part out of each box, proportioned to the number in each box respectively.

SECT. V. and VI. *Repealed December 7*, 1814.

ACT of February 7, 1807. (Dig. p. 175.)

68. SECT. I. All persons who have or shall hereafter recover any debt, damages or costs by the judgment of any court of record within this territory, may at their election, prosecute writs of *fieri facias, elegit* and *capias ad satisfaciendum*, within the year for taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following, all such writs shall run in the name of the Mississippi Territory of the United States, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs: *Provided*, That if the plaintiff shall desire an execution to issue returnable at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis mutandes*;

A FIERI FACIAS IN DEBT.

"The Mississippi Territory of the United States, to the sheriff of county, greeting: we command you, that of the goods and chattels of A. B. late of your county, you cause to be made the sum of which C. D. lately in our court hath recovered against him for debt; also the sum of , which to the said C. D in the same court, were adjudged for his damages, as well by reason of the detention of the said debt as for his costs in that behalf expended; whereof the said A. B. is convicted as appears to us of record, and that you have the said before the judges, (or justices, as the case may be) of our said court, on the day of next, to render to the said C. D. of his debt and damages aforesaid; and have then there this writ. Witness, &c."

The same in case, upon a promise—

As before, unto " for his damages which he hath sustained, as well by reason of the non-performance of a certain promise and assumption by the said A. B. to the said C. D. lately made as for his costs by him about his suit in that behalf expended, &c."

IN TRESPASS.

As before, unto " for damages as well by occasion of a certain trespass by the said A. B. to the said C. D. offered as for his costs, &c"

If for the defendant, say—

"For his costs about his defence in a certain action at the suit of the said, &c."

IN COVENANT.

As before, unto "for damages, &c. by reason of a breach of a certain covenant between the said A. B. and C. D. lately made, &c."

THE FORM OF A WRIT OF ELEGIT.

"The Mississippi Territory of the United States, to the sheriff of county, greeting: Whereas A. B. at our court, &c. before our judges (or justices) held, hath recovered against C. D. the sum of which to the said plaintiff was adjudged for a certain debt or damages (as before) and the said A. B. hath chosen to have delivered to him all the goods and chattels of the said C. D. saving only the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your county, to have and to hold the goods and chattels aforesaid, as his own proper goods, and the said moiety as his freehold, to him and his assigns, until he shall have levied thereof, the debt and damages aforesaid; therefore we command you, that you cause to be delivered all the goods and chattels of the said C. D. saving the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your county, whereof he at the day of obtaining the said judgment was seized, or at any time afterwards, by reasonable price and extent, to have and to hold the said goods and chattels, to him the said A. B. as his own proper goods and chattels, and the said moiety as his freehold, to him and his assigns, until he shall have levied thereof the debt and damages aforesaid; and that you certify our said judges (or justices) under your own seal, and the seals of those by whose oath you shall make this extent and appraisement, how you execute this writ, the day of and have then there this writ."

A CAPIAS AD SATISFACIENDUM.

"The Mississippi Territory of the United States, to the sheriff of county, greeting: We command you, that you take A. B. late of said county, if he be found therein, and him safely keep, so that you have his body before the judges (or justices) of our court, &c. the day of next, to satisfy C. D. the sum of which the said C. D. hath recovered against him for debt also," &c. as before, in case, trespass or covenant, as in the *fieri facias.*

Which said writs, so issued, shall be executed by the sheriff or other officer, to whom the same shall be directed, and shall be returned according to the respective forms hereafter mentioned;

THE RETURN OF A FIERI FACIAS.

" By virtue of this writ, to me directed, I have caused to be made the within mentioned sum of of the goods and chattels of the within named A. B. which said sum of before the judges (or justices) within mentioned, at the day and place within contained, I have ready, as that writ requires." Or :

" The within named A. B. hath no goods or chattels within my county, whereof I can make the sum within mentioned, or any part thereof."

Or—" By virtue," &c. " I have caused to be made of the goods and chattels of the within named C. D. the sum of in part of the debt and damages within mentioned, and I do further certify that the said A. B. hath no more goods and chattles within my county, whereof, at present, I can make the residue of the said debt and damages, as by the said writ is required."

RETURN OF A WRIT OF ELEGIT.

" Inquisiton indented, taken at in the county aforesaid, the day of in the year of our Lord before me E. F. sheriff in the county aforesaid, by virtue of a writ, to me directed, and to this inquisition annexed, and by the oaths of A. B. C. &c. good and lawful men of said county, who being charged and sworn, upon their oath do say, that A. B. in the said writ, to this inquisition annexed, named, the day of the caption of this inquisition, was possessed of the goods and chattels following, as of his own proper goods, to wit :— of the price of which I the said sheriff, have caused to be delivered to the said C. D. to hold to him as his own proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said writ mentioned ; and further the said jurors, upon their oath do say, that the said A. B. at the time of rendering the judgment aforesaid, was seized in his own demesne, of fee, of and in (here name the houses and lands) with the appurtenances, of the annual value in all the issues beyond reprises, of dollars ; acres of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements and hereditaments whatsoever, in the county aforesaid, of the said A. B. which said moiety, I the said sheriff, the day aforesaid, to C. D. in the said writ, named, at a reasonable extent, have delivered to hold to him and his assigns as his freehold, according to the form of the act in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires : and further the said jurors, upon their oath do say, that the said A. B. at the time of giving the judgment aforesaid, had not, nor at the day of taking this inquisition, hath any other or more goods and chattels, lands or tenements, in the county aforesaid, to the knowledge of the jurors aforesaid : in testimony whereof as well I, the said sheriff, as the jurors aforesaid, to this inquisition, have severally put our seals, the day, year and place above mentioned."

RETURN OF A CAPIAS AD SATISFACIENDUM.

"By virtue of this writ to me directed, I have taken the within named A. B. whose body before the judges (or justices) within named, at the day and place within contained, I have ready to satisfy C. D. of the debt and damages within mentioned.

Or ;—" The within named A. B. is not found within my county."

69. Sect. II. When any execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution, at his own proper cost, and charges, the clerk may issue the same, if the first writ be not returned and executed; and where, upon a *capias ad satisfaciendum*, the sheriff shall return that the defendant is not found, the clerk may issue a *fieri facias*, and if upon a *fieri facias*, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a *capias ad satisfaciendum* upon the same judgment; and where part of a debt shall be levied upon an *elegit*, a new *elegit* shall issue for the residue; and where *nihil* shall be returned, upon any writ of *elegit*, a *capias ad satisfaciendum* or *fieri facias* may issue, and so *vice versa*; and where one judgment is obtained against several defendants, execution thereon shall issue as if it were against one defendant and not otherwise.

70. Sect. III. If any tenant by *elegit*, be evicted of his title in the lands, tenements or hereditaments, which he holds by virtue of any extent thereof, by judgment had against him, otherwise than by his own fraud or default, before satisfaction shall be made him for his debt or damages and costs, he shall and may have a writ of *scire facias* against the debtor, his heirs, executors or administrators, and may thereafter sue out such other writ of execution for the residue of his debt or damages and costs, as shall appear to remain unpaid, as if no execution had been theretofore issued.

Sect. IV. When any judgment or recognizance shall be extended, the same shall not be avoided or delayed, by occasion that any part of the lands or tenements extendible, are or shall be omitted out of such extent, saving always to the party and parties whose lands shall be extended, his and their heirs, executors and assigns, his and their remedy for contribution against such person and persons, whose lands are or shall be omitted out of such extent, from time to time: *Provided nevertheless*, That this act, or any thing therein contained, shall not be construed to give any extent or contribution against any heir or devisee, within the age of twenty-one years, during such minority of such heir or devisee, for or in respect of any lands to such heir or devisee descended or devised, further or otherwise than might have been made before the making of this act.

71. Sect. V. If any person being in prison, charged in execution, shall happen to die in execution, the party or parties at whose suit or

to whom such person shall stand charged in execution for any debt or damages recovered, his or their executors or administrators may, after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased: *Provided always*, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution against any of the lands, tenements or hereditaments of such party dying in execution, which shall at any time after the said judgment or judgments be by him sold in *bona fide*, for the payment of any of his creditors at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors, with their privity, in discharge of his or their debts or some part thereof.

72. Sect. VI. If any person taken in execution, be delivered by privilege of either House of Assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

73. Sect. VII. When judgment shall be obtained in any court of record within this territory, for any debt or damages, and the person against whom such jndgment shall be obtained, shall remove himself or his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of *fieri facias* or *capias ad satisfaciendum*, or any other legal or proper writ of execution or attachment, for the non performance of a decree in chancery (as the case may require) in the form and under the teste herein before prescribed, and to direct the same to the sheriff of any county, or marshal of any corporation within this territory, where the defendant or debtor or his goods shall be found: which said sheriff or other officer to whom the same shall be directed, is hereby empowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed.

74. Sect. VIII. No writ of *fieri facias*, or other writ of execution shall bind the property of the goods, against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff under sheriff, coroner, or other officer, to be executed; and for the better manifestation of the said time, such sheriff, coroner, or other officer, his deputy or agent, shall upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof, the day of the month and year when he received the same; and if two or more writs shall be delivered against the same person on the same day, that which was first delivered shall be first satisfied. If any sheriff, coroner, or other officer, to whom any execution shall be delivered, shall fail or neglect to endorse thereon, the day of the month

and year when he received the same, every such person, for every such failure, shall be liable, on a motion to be made before the court from whence the execution issued, to a penalty not exceeding fifteen per centum, upon the amount of the said execution, if it be for money, and if it be for a specific thing, one hundred dollars, to the use of the party injured, upon giving ten days previous notice of such motion; and shall moreover be liable to the action of the party grieved, for all damages arising from such failure.

SECT. IX. X. *Repealed December* 23, 1809.

75. SECT. XI. When an execution shall issue against the estate of any sheriff, under sheriff, marshal of a corporation, coroner or constable, or their securities, or their heirs, executors or administrators, or either of them, upon a judgment obtained against such sheriff, under sheriff, marshal of a corporation, coroner or constable, or securities, or the heirs, executors or administrators, or either of them, for money recovered by such sheriff, under sheriff, marshal of a corporation, coroner or constable, by virtue of any execution or process levied or executed by him or them, or for any money collected or received by them, in any manner as sheriff, marshals, coroners or constables, no security for the payment of the money mentioned in such execution, at a future day, or to have the goods forth coming at the day of sale, shall be taken or received, but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security be tendered, and for the better direction of such officer, the clerk issuing such execution shall endorse thereon, "That no security of any kind is to be taken."

76. SECT. XII. No sheriff, or other officer, to whom any writ of *fieri facias* shall be directed, shall take in execution any slave or slaves unless the debt and cost mentioned in such *fieri facias*, shall amount to the sum of one hundred dollars: *Provided*, There be shewn to such sheriff or officer, by the defendant, or any other person, sufficient other goods and chattels of such defendant's, within the county of such sheriff or officer, upon which he may levy the debt and cost mentioned in such *fieri facias*.

SECT. XIII. Where any slave or slaves shall be taken in execution, and sold, the names of such slaves, shall be certified on the back of such execution, and returned to and recorded among the records of the court where such execution shall issue.

77. SECT. XIV. If the goods taken by any sheriff or other officer, or any part thereof, shall remain in his hands unsold, he shall make return accordingly; and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had as might and ought to have

been had on the first execution; which writ of *venditioni exponas* shall be in the form following;

"The Mississippi Territory of the United States, &c. greeting:— We command you, that you expose to sale, those goods and chattels of A. B. to the value of which, according to our command, you have taken, and which remain in your hands, unsold, as you have certified to our judges (or justices) of our court, to satisfy C. D. the sum of whereof in our said court, he hath recovered execution against the said A. B. by virtue of a judgment in the said court, and that you have," &c.

78. Sect. XV. When any sheriff, or like officer, shall serve any writ of execution on slaves, horses or other stock, and the same shall not be immediately restored to the debtor, on his executing a forthcoming bond as aforesaid, it shall and may be lawful for such officers, and they are hereby required to provide sufficient sustenance for the support of such slaves or live stock until such slaves or stock be sold, or otherwise legally discharged from such execution; and upon the return of any execution, the court may and shall, upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expences incurred by supporting such slaves or stock; and the said officer shall and may be allowed to retain the same out of the money arising from the sale of the said slaves or stock.

79. Sect. XVI. If any sheriff shall levy an execution on property, and a doubt shall arise, whether the right of such property is in the debtor or not, such sheriff may apply to the plaintiff, his attorney or agent, for his bond with good security, for indemnification for the sale of the property seized, which, if the plaintiff, his attorney or agent, refuses or fails to do within ten days after such application, the sheriff or other officer shall be justified in delivering up such property to the party from whose possession the property was taken.

Sect. XVII *Repealed December* 23, 1809.

80. Sect. XVIII. When any writ of *capias ad satisfaciendum* has been, or shall be levied on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer, serving the same, slaves or personal property, to the value of the debt and costs, for which such execution has issued or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed, in the case of goods taken in execution upon a writ of *fieri facias*, and shall thereupon discharge such debtor out of custody: *Provided always*, That if such property, so tendered, shall not be sufficient to satisfy the debt or damages and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum* or *fieri facias*, at the option of the plaintiff, shall issue for any balance; and the clerk of the court from which such execution originally issued, shall upon the return of the sheriff

of the insufficiency or incumbrance aforesaid, issue a new *capias ad satisfaciendum* or *fieri facias*, if required: but where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *fieri facias* issued in consequence of such return, to avail himself of the privileges of this act.

81. Sect. XIX. Nothing in this act contained, shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due, upon any demise, lease or contract whatsoever.

82. Sect. XX. Wheresoever on a sale made under any execution, the amount of such sale shall exceed the principal, interest and cost, the sheriff, or other officer, shall pay such excess or surplus to the debtor, his executors, administrators, or agent; and if any sheriff, or other officer, shall fail or refuse to pay such surplus or excess, when required, such sheriff, or other officer, his or their security, or securities, his or their executors, or administrators, shall, each and every of them, be liable to the like penalty and judgment in favor of the said debtor, as is prescribed and directed by law in favor of the plaintiff against the sheriff, for not paying the principal, interests and costs levied on an execution.

83. Sect. XXI. When any sheriff, or other officer, under any execution shall receive the whole or any part of the money for which the said execution was issued, and the person against whom such execution may have issued, his executors or administrators, shall obtain an injunction to such execution, or any part of the money mentioned therein, before the money received by such sheriff, or other officer, is paid to the plaintiff, his agent or attorney, or his executors or administrators; in every such case, the sheriff, or other officer, his executors or administrators, shall repay the person or persons against whom such execution issued, his or their executors, administrators or agent, the money so received, or such part thereof, as may be enjoined to the person having a right to demand the same; such sheriff, or other officer, and their securities, his and their executors and administrators, and every of them, shall be liable to the like penalty and judgment in favor of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law in favor of the plaintiff against the sheriff, for not paying money levied on an execution.

84. Sect. XXII. If any person, or persons, taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he, or they, shall not depart or go out of the rules or bounds of the prison to which he or they shall be committed, it shall be lawful for the sheriff, in whose custody such prisoner shall be, to permit him or them to go out of the prison and return at their pleasure.

85. SECT. XXIII. And for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be of no benefit, but rather a disadvantage to their creditors—*Be it further enacted*, That if any person that now is, or shall hereafter be taken, or charged in execution in any suit, commenced or prosecuted in any court of record within this territory, it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prisoner to bring before the said court if sitting, or if not sitting, in case it be a superior court, before any one judge of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of said court, at their county court-house, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions with which he or she shall stand charged in the said jail, which warrant such jailor is hereby required to obey; and ten days notice thereof shall be given to the party or parties, or their executors, administrators or agents, at whose suits such prisoner or prisoners shall be in execution; and every such prisoner coming before the said court, judge or justices, as the case shall be, shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say: "I, A. B. do, in the presence of Almighty God, solemnly swear, (or affirm, as the case may be) that the schedule now delivered and by me subscribed, doth contain, to the best of my knowledge and remembrance, a full, just, true and perfect account and discovery of all the estate, goods and effects, to me in any ways belonging, and such debts as are to me owing, or to any person in trust for me, and of all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me; and that I, or any other person or persons in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, revision or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly sold, lessened or otherwise disposed of, in trust, or concealed all or any part of my lands, money, goods, stock, debts, securities, contracts or estate, whereby to secure the same, or to receive or expect any profit or advantage therefrom, or to defraud or deceive any creditor or creditors to whom I am indebted, in any wise howsoever. So help me God." Which schedule, being so subscribed in open court, if taken in court, and if not, in the presence of one judge or two justices, shall be returned to the clerk of the court, there to remain for the better information of the creditor; and after delivering in such schedule, and taking such oath, such prisoner shall be discharged by warrant from such court, or from one judge or two justices (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer against any escape or escapes, action or actions whatsoever, which shall or may be brought or prosecuted

against him or them, by reason thereof; and if any action should be commenced against any sheriff or officer, for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence: *Provided always*, That notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgment, at any time afterwards, to sue out a writ of *scire facias*, to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire, or be possessed of; but no person delivering in such schedule, and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court in which the said judgment shall have been rendered: *And provided also*, That any person confined within the limits of any prison bounds, shall be entitled to the benefit of this act, in the same manner, and under the same regulations, as those confined in jail, and all bonds given for the keeping of the said prison bounds, shall be null and void, after such prisoner shall be so discharged.

SECT. XXIV. All the estate which shall be contained in such schedule and any other estate which may be discovered to belong to the prisoner, for such interest therein as such prisoner hath and may lawfully depart withal, shall be vested in the sheriff of the county, wherein such lands, tenements, goods or chattels shall lie or be found, and such sheriff is hereby authorised, empowered and required, within sixty days after the taking of the said oath, ten days previous notice of the time and place of sale being given, to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale, shall be by such sheriff or officer paid to the creditor or creditors, at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner, his or her necessary apparel, utensils of trade and arms for the defence of himself and his county; and if any sheriff, or other officer, shall fail to pay the money arising from such sale according to law, he shall be liable to the same penalty, to be recovered in the same manner and by the same persons, as if the said money had been levied by a *fieri facias*.

SECT. XXV. When any insolvent debtor shall be discharged pursuant to this act, and the schedule subscribed and delivered in by such prisoner, shall contain money due to such prisoner, or of goods, chattels or estates, belonging to him and in the possession of another, in that case the clerk of the court, with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels or estates of the property of the prisoner, reciting the sum of money he or she is charged with, or the particular goods, chattels or estates, said to be in his possession, and requiring him or her to appear at the next court, and declare on oath, whether the said money, or any part thereof, be really due to such prisoner, and whether such goods, chattels or estate, be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person for the money, goods, chattels or estates in such schedule mentioned, together with costs of suit, a lawyer's fee excepted, and if any such persan so summoned shall appear and be sworn, judgment shall be entered for so much of the money, goods or chattels, or estates, as he or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid, which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the execution as in other cases, and to dispose of the money, goods, chattels or estates so recovered, in the same manner as the estate contained in the schedule is hereby directed to be disposed of: *Provided always*, That where any such garnishee shall not acknowledge the whole money to be due, or all the goods, chattels or estates, mentioned in the schedule to be the property of the prisoner, and in his possession, the sheriff, or such prisoner, at any time after, unless barred by any of the acts limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee shall be no further bar in such process than for so much money, or such goods, chattels and estates, as the garnishee is thereby ordered to pay or deliver.

Sect. XXVI. Every sheriff shall be allowed to retain out of the effects of such insolvent debtor, before the distribution thereof, all reasonable expences in recovering such money, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee, as shall be judged reasonable by the court; and if such effects be not sufficient, he shall be reimbursed such expences by the creditor, or creditors if more than one, in proportion to their demands.

86. Sect. XXVII. Where such insolvent person shall not be able to satisfy or pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties at whose suit such insolvent person shall be imprisoned, all such fees as shall become due, until such creditor shall agree to release such prisoner; and if the creditor, upon notice given to him or her, his or her attorney or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison: *Provided nevertheless*, That such insolvent prisoner shall be afterwards liable to the action of the creditor to recover such fees; and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards sue out a *scire facias* to have a new execution

against the lands and tenements, goods and chattels of such prisoner, in case he or she shall afterwards become possessed of any.

87. Sect. XXVIII. When any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dealing than if he was in custody on one execution only, nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only, which shall be paid by the creditor at whose suit such debtor was first taken.

88. Sect. XXIX. If a *destringas* issue in detinue, the court for good cause shewn, may direct it to be superseded, so far as it relates to the specific thing, and to be executed for the alternative price or value, only if fixed in the judgment, or if the same shall afterwards be fixed by a writ of enquiry.

Sect. XXX. *Repealed.*

89. Sect. XXXI. And whereas doubts have arisen in what manner judgment should be rendered against any sheriff, coroner or marshal of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof: *Be it further enacted*, That when any writ of execution or attachment for not performing a decree in chancery, shall come into the possession of any sheriff, coroner or marshal of a corporation, and he shall fail to return the same to the office from whence it issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon motion of the party injured, to fine such sheriff, coroner or marshal of a corporation, in any sum not exceeding five dollars per month for every hundred dollars contained in the judgment or decree on which the execution or attachment so by him detained was founded, and so in proportion for any greater or lesser sum counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the ssid fine.

90. Sect. XXXII. If any sheriff or other officer, shall make return on any writ of *fieri facias* or *venditioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party to whom the same is payable, or to his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment for not performing a decree in chancery, for payment of any sum of money (that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money in such writ mentioned) and shall have actually received such money of the defendant or defendants, or have suffered him, her or them to escape with the consent of such sheriff, undersheriff or officer, and shall not immediately pay such money to the party to whom the same is payable, or his attorney, then, and in either of the said cases, it shall and may be lawful for the creditor at whose suit

such writ of *fieri facias* or *venditioni exponas*, *capias ad satisfaciendum* or attachment, upon a motion made at the next succeeding court from whence such writ shall issue, to demand judgment against such sheriff, officer, or under-sheriff, or securities of such under-sheriff, for the money mentioned in such writ, or so much as shall be returned levied on such writs of *fieri facias* or *venditioni exponas*, with interest thereon, at the rate of fifteen per centum per annum, from the return day of the execution until the judgment shall be discharged; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereon: *Provided*, such sheriff or officer have ten days previous notice of such motion.

91. Sect. XXXIII. And whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution: *Be it therefore enacted*, That where any execution shall be delivered to the sheriff of any other county than that where any creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her, or their agent, for the particular purpose of receiving the money on such execution, and for giving to and receiving from the sheriff any notices which may be necessary, relating thereto, and payment made, and notices given to such agents, shall be as effectual as if made or given to the creditor; and if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff, for non-payment of the money mentioned in such execution, unless a demand thereof shall have been first made of such sheriff, in his county, by the creditor or some other person having a written order from him; nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor; but such prisoner shall be discharged in those cases, respectively, without any notice to be given to the creditor so failing.

92. Sect. XXXIV. After obtaining a final decree for lands, slaves, or money, or things of a specific nature, in any court having chancery jurisdiction, the clerk of such court shall, upon the request of the party obtaining such decree, issue any writ of execution, either a *fieri facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the Mississippi Territory of the United States, and bear teste and be signed by the clerk of the court, and all process so issued shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return day thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation and possess, the same force to all intents and purposes as similar process issued upon judg-

ments at common law, the officer or officers to whom any such process is directed, shall be subject to the like penalties, for misconduct or neglect, and the court shall exercise in this and in all cases relating to such process, the same powers as if the said process had issued upon a judgment obtained at common law ; but nothing herein contained shall prohibit any person from proceeding to carry any order or decree in chancery into execution, in any manner in which he might avail himself before the passing of this act.

93. Sect. XXXV. No goods or chattels whatsoever, lying or being in, or upon any messuage, lands or tenements which are or shall be leased for life or lives, term of years or will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution on any pretence whatsoever, unless the party so taking the same, shall before the removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all money due for the rent of the said premises at the time of taking such goods or chattels in execution : *Provided nevertheless*, That such rent arrears do not amount to more than one year's rent, and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment, and the sheriff or officer levying the same is hereby empowered and required to levy and pay to the plaintiff, as well the money so paid for the rent as the execution money.

94. Sect. XXXVI. No writ of execution shall issue against lands and tenements, unless in the case of an attachment against an absconding debtor, and executions issued in favor of the territory, except the writ of *elegit*, which shall in no case issue where the defendant or de-defendants, their executors or admistrators, hath sufficient goods and chattels to satisfy any judgment or decree which may be rendered against him, her or them.

Sect. XXXVII. *Repealed December 7*, 1809.

95. Sect. XXXVIII. In all cases where the writ of *elegit* shall be sued out, that the defendant or defendants shall have the election of the moiety of his, her or their lands to be extended.

ACT of February 10, 1807. (Dig. p. 200.)

96. Sect. I. All process, which heretofore issued against goods and chattels, shall hereafter issue against lands and tenements, in the same manner as against goods and chattels, in the case of foreigners and non-residents ; and the sheriff upon such attachment, execution or other process, shall proceed to levy the same upon the goods and chattels of the defendant, in the first instance, if any there be ; but if to the best of his knowledge there be no such goods and chattels, or not suffieient to answer the plaintiff's demand, he shall execute the

same upon the lands and tenements of such non-resident, to the amount of the whole debt; or of so much as may remain more than the value of the goods and chattels so found; and such lands and tenements shall be liable under the restrictions aforesaid, to be sold to satisfy the judgment of the plaintiff; and he shall sell the same at the most public place in his county, after his having given at least forty days notice, by advertisement in the public gazettes, before the day of sale.

ACT of February 6, 1807. (Dig. p. 212.)

97. Sect. IX. Every action at common law, or suit in chancery, commenced in the name of any person residing out of this territory, shall be dismissed if security be not given with the clerk of the court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice shall, at any time during such non-residence, have been given to the plaintiff or his attorney, by some person interested, that such security is required for the payment of the costs which may be awarded to the defendant, and also of the fees that is or may become due to the officers of the court; and after security shall be so given, and the fees not paid at the time the same becomes due, it shall and may be lawful for the court in which the cause was commenced, to enter up judgment on motion against such security, and award execution accordingly.

98. Sect. X. It shall be the duty of the sheriff, to summon three constables to attend each circuit court, who shall attend accordingly, or pay a fine at the discretion of the said court, not exceeding ten dollars.

ACT of February 28, 1799. (Dig. p. 236.)

99. Sect. I. If two or more dealing together, be indebted to each other upon bonds, bills, bargains, promises, accounts, or the like, and one of them commence an action in any court, if the defendant cannot gainsay the deed, bargain or assumption, upon which he is sued, it shall be lawful for such defendant to plead payment of all, or part of the debt, or sum demanded; and give any bond, bill, receipt or account in evidence; and if it shall appear that the defendant hath fully paid or satisfied the debt or sum demanded, the jury shall find for the defendant: and judgment shall be entered, that the plaintiff shall take nothing by his writ, and shall pay the costs. And if it shall appear that any part of the sum demanded be paid, then so much as is found to be paid, shall be defalked and deducted out of the plaintiff's demands; and the plaintiff shall have judgment for the residue only, with costs of suit. But if it appear to the jury that the plaintiff is over paid, then they shall give in their verdict for the defendant, and withal certify to the court, how much they find the plaintiff to be indebted, or in arrear to the defendant, more than will answer the debt or sum demanded. And the sum or sums so certified, shall be recorded with

the verdict, and shall be deemed a debt of record; and if the plaintiff refuse to pay the same, the defendant, for the recovery thereof, shall have a *scire facias* against the plaintiff in the said action, and have execution for the same, with the costs of that action.

Provided always, That in all cases where a tender shall be made, and full payment be offered by discount, or otherwise, in such specie as the party by contract or agreement, ought to do, and the party to whom such tender shall be made, doth refuse the same, and yet afterwards will sue for the debt or goods, so tendered, the plaintiff shall not recover any costs in such suit.

Provided also, That in all cases where the plaintiff and defendant having accounts to produce one against another, shall by themselves, or attornies or agents, consent to a rule of court, for referring the adjustment thereof to certain persons mutually chosen by them, in open court, (the award or report of such referees being made according to the submission of the parties, approved of by the court, and entered upon the record, or roll) shall have the same effect, and be deemed and taken to be as available in law, as a verdict given by twelve men. And the party to whom any sum or sums of money are thereby awarded to be paid, shall have judgment or a *scire facias*, for the recovery thereof, as the case may require, and as is herein before directed, concerning sums found and settled by a jury.

ACT of May 13, 1802. (Dig. p. 258.)

100. Sect. I. When any suit shall be depending in any court in this territory, and either of the parties shall die before final judgment, the executor or administrator of such deceased, who was plaintiff, petitioner or defendant, shall have full power (in case the cause of action by law survive) to prosecute or defend such action until final judgment: and the defendant is hereby obliged to answer thereto accordingly. And the court before whom such cause may be depending is hereby empowered and directed to hear and determine the same; and to render judgment for or against such executor or administrator, as the case may require: and if such executor or administrator, having been duly served with a *scire facias*, or citation from the office of the clerk of the court, where such suit is depending, fifteen days before the meeting thereof, shall neglect or refuse to become a party to the suit, the court may render judgment against the estate of the deceased party, in the same manner as if the executor or administrator had voluntarily made himself a party to the suit; and the executor or administrator, who shall become a party as aforesaid, shall, upon motion to the court where the suit is depending, be entitled to a continuation of the same until the next term, or time of holding the court.

ACT of February 2, 1802. (Dig. p. 259.)

101. Sect. I. All actions of trespass, *quare clausum fregit*, all actions of trespass, detinue, trover and replevin, for taking away of

goods and chattels—all actions of debt, founded upon any lending or contract, without specialty, or for arrearages of rent due on a parole demise, and all actions of account, and upon the case, except actions for slander, and except also such actions as concern the trade of merchandize between merchant and merchant, their factors or agents, shall be commenced within six years next after the cause of such actions shall have accrued, and not after,

Sect. II. All actions of trespass for assault, menace, battery, wounding and imprisonment, or any of them, shall be commenced and sued within two years next after the cause of such actions shall have accrued, and not after,

Sect. III. Every action upon the case for words, shall be commenced and sued within one year next after the words spoke, and not after: *Provided always*, That if any person or persons, who is, are or shall be entitled to any of the actions herein before specified, is, are, or shall be at the time of any such cause of action, accruing within the age of twenty-one years, *feme covert*, or insane, then such person or persons may institute such action, so that the same be instituted within such time as is before limited, after his, her, or their coming to, or being of full age, discovert, or of sane memory.

Sect. IV. *Repealed December* 5, 1809.

Sect. V. Every action of debt, or covenant for rent or arrearages of rent, founded upon any lease under seal, and every action of debt, upon any single or penal bill, for the payment of money only, or upon any obligation, with condition for the payment of money only, or upon any award under the hands and seals of arbitrators, for the payment of money only, shall be commenced and sued within sixteen years after the cause of such action shall have accrued, and not after; but if any payment shall have been made on any such lease, specialty or award, within or after the said period of sixteen years, then an action, instituted on such lease, specialty or award, within sixteen years after such payment, shall be good and effectual in law, and not after: *Provided always*, That the time, during which the person who is or shall be entitled to any of the actions specified in this section, shall have been within the age of twenty-one years, *feme covert*, or insane, shall not be taken or computed as part of the said limited period of sixteen years.

Sect. VI. Judgment in any court of record in this territory, may be revived by *scire facias*, or an action of debt may be brought thereon, within twenty years next after the date of such judgment, and not after. *Provided*, That the time during which the person who is or shall be entitled to the benefit of such judgment, shall have been under the age of twenty-one years, *feme covert*, or insane, shall not be taken or computed as part of the said limited period of twenty years.

102. Sect. VII. No person who now hath, or hereafter may have,

any right or title of entry unto any lands, tenements or hereditaments, shall make any entry therein, but within twenty years next after such right or title shall have accrued, and such person shall be barred from any entry afterwards: *Provided always*, That the time during which the person who hath or shall have such a right or title of entry, shall have been under the age of twenty-one years, *feme covert*, or insane, shall not be taken or computed as part of the same limited period of twenty years.

103. Sect. VIII. If any person or persons against whom there is or shall be any cause of action, as is specified in the preceding sections of this act, is, or are, or shall be out of this territory, at the time of the cause of such action accruing, or any time during which a suit might be sustained on such cause of action, then the person or persons, who is or shall be entitled to such action, shall be at liberty to bring the same against such person or persons, after his, her or their return into this territory; and the time of such person's absence, shall not be accounted or taken as a part of the time limited by this act.

104. Sect. IX. From and after the passing of this act, every real, possesory, ancestral, mixed or other action, for any lands, tenements, or hereditaments, shall be brought and instituted within thirty years next after the right or title thereto, or cause of such action accrued, and not after: *Provided always*, That the time during which the person who hath, or shall have such right or title, or cause of action, shall have been under the age of twenty-one years, *feme covert*, or insane, shall not be taken or computed part of the said limited period; also, that nothing in this act contained, shall be so construed, as in any wise to affect or interfere with the primary disposal of the vacant lands of the United States within this territory.

105. Sect. X. If in any of the said actions specified in any of the preceding sections of this act, judgment be given for the plaintiff, and the same be reversed by writ of error; or if a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, then the said plaintiff, his or her heirs, executors or administrators, as the case shall require, may commence a new action, within one year after such judgment reversed, or given against the plaintiff, and not after.

ACT of March 12, 1803. (Dig. p. 349.)

106. Sect. III. No person or persons, upon the first day of the week, called Sunday, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment or decree; except in criminal cases, or for a breach of the peace; but that the service of every such writ, process, order, warrant, judgment or decree, shall be void to all intents and purposes whatsoever; and the person or persons so serving or executing the same, shall be as liable to the

suit of the party aggrieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree: *Provided*, That if information shall be made by the oaths of two reputable persons, to any justice of the peace or magistrate, of any corporate town, that they have good reason to believe that any person liable to have any such process, warrant, order, judgment or decree, served upon him, intends to withdraw himself, and escape from this territory, under cover and protection of the said first day of the week, commonly called Sunday—in that case it shall be lawful for any officer, duly authorised, being furnished with a certificate of such information, upon oath, as aforesaid, under the hand of the justice of the peace, or magistrate, as aforesaid, to serve, or execute such proces, warrant, order, judgment or decree, on the said first day of the week; which shall be as valid, and effectually done, to all legal intents and purposes, as if the same had been done on any other day of the week.

ACT of February 4, 1807. (Dig. p. 352.)

107. Sect. I. All promises, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other securities, or other conveyances whatsoever, made, signed, given, granted, drawn, or entered or executed by any person or persons whatever, after the passing of this act, where the whole or any part of the consideration of such promise, agreement, conveyance or security, shall be for money, or other valuable thing whatsoever, nor laid or betted at cards, dice, or at any gaming table, commonly called A B C, or E O, or billiards, or any other table, known or distinguished by any other letters, or by any figures, or Rowley Powley table, or any Rouge and Noir, or at any faro bank, or at any other gaming table or bank of the same or the like kind, under any other denomination whatsoever, or at any horse race, cock fighting, or at any other sport or pastime, or on any wager whatsoever, or for reimbursing or repaying any money knowingly lent or advanced at the time or place of such play, horse racing or cock fighting or other sport or pasttime, to any person or persons so gaming, betting or wagering, or shall at such time and place, so play, bet or wager, shall be utterly void and of none effect, to all intents and purposes whatsoever, any law, custom, or usage to the contrary thereof, in any wise notwithstanding.

ACT of February 26, 1808. (Stat. p. 9.)

108. Sect. I. From and after the passing of this act, it shall and may be lawful for any one justice of the county courts of this territory, in case a quorum shall not attend on the first day of the term of said court, to adjourn their courts respectively from day to day for three days; and in case of the non-attendance of any of the justices, the sheriffs of the counties are in like manner authorised and required to adjourn the said courts from day to day for three days; and if a quorum be not made on

or before the third day, said court shall be adjourned until the succeeding term.

ACT of February 24, 1809. (Stat. p. 5.)

109. Sect. V. A county court shall be held in the county of Amite aforesaid on the second Mondays in February and August annually, and may continue in session six days at each term, and no longer.

ACT of February 27, 1809. (Stat. p. 7.)

110. Sect. I. The laws relating to the judiciary and the militia of this territory be immediately extended to the county of Madison.

Sect. II. There shall be immediately organized in the county of Madison circuit and county courts, in the same manner as the circuit and county courts in the counties of Claiborne, Jefferson, Adams and Wilkinson are organized.

Sect. VI. All the laws of a general nature which now exist or hereafter may be passed for the government of this territory, shall extend to and be binding on the inhabitants of the county of Madison.

Act of December 5, 1809. (Stat. p. 32.)

111. Sect. I. Whereas by the fourth section of the before recited act the securities of the respective clerks and sheriffs of the several counties in this territory, are not liable to be sued or prosecuted in any manner whatever, if they have remained and continued to be securities for the space of five years, therefore,—*Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in general Assembly convened*, That the fourth section of the before recited act, be, and the same is hereby repealed, and made void. And that it shall be the duty of the clerks and sheriffs in the different counties of this territory, within six months from, and after the passing of this act, to execute bonds with sufficient security or securities for the faithful performance of the duties of their office as heretofore directed by law, under the penalty of one thousand dollars, recoverable by action of debt, in any court, having competent jurisdiction, one half to the party suing for the same, and the other half to the use of the territory.

ACT of December 7, 1809. (Stat. p. 33.)

112. Sect. I. All and every bond or bonds, which shall hereafter be given in pursuance of the law directing the manner of taking prison bounds-bonds, by any person or persons committed on a *capias ad satisfaciendum* shall, by the sheriff taking the same, be returned to the office of the clerk from whence such execution issued, to be safely

kept by such clerk, and if any person shall obtain the rule of any prison, upon giving bond and security as the law directs, and shall escape out of the same, before he shall have paid the debt or damages, and costs, according to the condition of said bond, upon due proof thereof, it shall be lawful, and full power and authority are hereby given to the court, where such bond is lodged, upon motion of the party for whom such execution issued, to grant judgment, and award execution against such person and his securities, executors or administrators, for the debt or damages, and cost, with six per cent interest, to be computed from the debt of such bond until payment. Provided, that if any fact should arise requiring to be tried by a jury, the court shall have power and authority, and they are hereby required to cause a jury to be empannelled and sworn to try the same; and if the regular jury attending such court shall be discharged, that then and in that case, the court shall cause a jury of qualified bystanders to be summoned for the trial thereof. Provided always, that the obligors, their executors, or administrators, or such of them as is intended to have judgment entered up against, shall have notice in writing, at least ten days previously to the time of making such motion.

113. SECT. II. No person or persons who shall be committed on any such execution shall be allowed the rules of any prison, but shall be kept in safe custody in prison, until the whole debt, or damages with costs and interest shall be fully paid, or until they shall be otherwise discharged by law.

ACT of December 22, 1809. (Stat. p. 94.)

114. SECT. I. The county courts in the county of Franklin shall be held on the third Mondays in February and August, in each and every year.

115. SECT. VII. The county courts for the county of Warren shall be held on the first Monday in January and July in each and every year.

ACT of December 22, 1809. (Stat. p. 98.)

116. SECT. I. The circuit courts heretofore established by law, for the several counties of the territory, shall hereafter be called and known by the names of "superior court of law and equity," for the counties of Madison, Claiborne, Jefferson, Adams, Wilkinson and Amite, and the said superior courts of law and equity in their several counties respectively, shall have, possess and exercise all the powers and jurisdiction, both in law and equity as heretofore exercised by the supreme court of the Mississippi Territory, and the several circuit courts thereof; provided, that nothing in this section contained shall be construed to make void any process now issued from, and not returned to the several circuit courts in the territory, but the same shall be returned

and filed in the said superior court of law and equity established in that county, and be as legal and valid as though the same had been returned to the heretofore circuit court of said county.

117. Sect. II. The clerk of the supreme court of the Mississippi Territory shall and he is hereby required to transfer the original papers, records and other judicial proceedings, in each cause or suit now depending and undetermined in the said supreme court, to the several superior courts of law and equity where the said cause or suit originated or commenced, or the parties reside, and where the parties reside in different counties of the territory, to the county where the defendant or defendants reside; and the records, minutes, papers and other judicial proceedings in all causes and suits which have been determined in the said supreme court, shall be transferred to the superior court of law and equity of Adams county to be deposited in the office for safe keeping; *Provided*, That the said superior courts of law and equity shall, and they are hereby directed to be held at the same time and places, in the several counties of this territory, as the circuit courts of said counties were heretofore respectively directed by law to be held.

Sect. III. and IV. *Expired.*

118. Sect. V. The clerks of the respective circuit courts of the different counties of the territory, shall and they are hereby required to transfer all the original papers, records and other judicial proceedings in the said circuit courts, to the superior court of law and equity established in that county. And the clerks of the said superior courts of law and equity, respectively, shall have, demand and receive the same fees and compensation as the clerks of the circuit courts and supreme court heretofore were entitled by law to receive.

119. Sect. VI. The supreme court of the Mississippi territory, as heretofore established by law, is hereby abolished, any law or custom to the contrary thereof, notwithstanding.

Sect. VII. *Expired.*

ACT of November 24, 1810. (Stat. p. 4.)

120. Sect. I. There shall be held in the counties of Baldwin, Washington and Wayne, a superior court of law and equity, twice a year.

Sect. II. *Repealed December 7, 1811.*

Sect. III. All suits, either at law or in equity, now pending in the superior court of Washington district, together with all the documents and papers thereunto belonging, shall by the clerk of said court be transmitted to the clerk's office of the superior court of the county within the boundaries of which the defendant resided at the time suit was commenced, on or before the first of March next, together with a list of the costs that have accrued thereon, and to whom the same are owing.

Sect. IV. It shall be the duty of the clerk of the county court of Washington county to transmit all documents and papers, together with the proceedings had thereon, now in his possession either as clerk of said court or as register of the orphans' court, on or before the first day of March next, to the clerk's office of the county to which they would of right have belonged, had the division of Washington county taken place previous to their being commenced or deposited in his office, together with a schedule of the papers and of the fees due thereon.

Sect. V. *Expired.*

ACT of December 3, 1810. (Stat. p. 23.)

121. Sect. I.* It shall be the duty of the justices of the county courts, and they, or any three of them, are hereby authorised and required to hold two intermediate courts in their respective counties in each and every year, to wit: in the county of Amite on the third Monday in April and October; in the county of Wilkinson on the first Monday in April and October; in the county of Adams on the first Monday in April and October; in the county of Franklin on the fourth Monday in May and November; in the county of Jefferson on the fourth Monday in April and October; in the county of Claiborne on the second Monday in May and November; in the county of Warren on the first Monday in June and December; in the county of Baldwin on the first Monday in July and January; in the county of Washington on the second Monday in July and January; in the county of Wayne on the third Monday in July and January; and in the county of Madison on the first Monday in April and October; and each of the said courts may continue to be held three judicial days each term, and no longer.

Sect. II. The aforesaid intermediate courts shall have power to perform all the duties now given and required of them by the existing laws of this territory as an orphans' court, and also to do the business of the county as it relates to roads, bridges, ferries, taverns, retailers of spirituous liquors, allowing claims against the counties: *Provided*, they shall not have the power of trying appeals from justices of the peace.

ACT of December 7, 1811. (Stat. p. 14.)

122. Sect. I. In all cases where judgment hath been, or hereafter may be entered up in any of the courts of record within this territory,

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* Time of holding Courts altered.

against any person or persons as security or securities, their heirs, executors or administrators, upon any note, bill, bond or obligation, and the amount of such judgment or any part thereof hath been paid or discharged by such security or securities, his, her or their heirs, executors or administrators, it shall and may be lawful for such security or securities, his, her or their executors or administrators, to obtain judgment by motion against such principal, obligor or obligors, payer or payers, his, her or their heirs, executors or administrators, for the full amount of what shall have been paid by the security or securities, his, her or their executors or administrators, in any court where such judgment may have been entered up against such security or securities, his, her or their heirs, executors or administrators; *Provided*, That the court shall in all cases arising under this act, direct a jury to be empannelled to try the facts, arising on any motion, and that on good cause shewn on oath, the court may direct the same to be continued for one term and no longer.

Sect. II When an execution may issue against any principal and security on any bill, bond, note or other instrument, the sheriff shall be authorised, and he is hereby directed to levy on the property of the principal first, if he has any property in the county where the security resides: *Provided*, the said security make oath before some justice of the peace that he is security upon the said bill, bond, note or other instrument, which said affidavit shall be filed by the sheriff in his office.

Sect. III. Where the principal obligor or obligors have, or hereafter shall become insolvent, and there have been or shall be two or more securities jointly bound with the said principal, obligor or obligors, in any bond, bill, note or other obligation for the payment of money or other thing, and judgment hath been or hereafter may be obtained against one or more of such securities, it shall and may be lawful for the court before whom such judgment was or shall be obtained, upon motion of the party or parties against whom judgment hath been entered up as securities aforesaid, to grant judgment and award execution, against all and every of the obligors and payers, and their legal representatives, for their and each of their respective shares and proportions of the said debt: *Provided*, That nothing in this act contained shall in any wise impair the obligation of each and every of the said obligors to pay and satisfy the whole of any such debt in case of the insolvency of the other obligors.

Sect. IV. No security or securities, his, her or their executors or administrators, shall be suffered to confess judgment, or suffer judgment to go by default so as to distress his, her or their principal or principals, if such principal or principals will enter him, her or themselves a defendant or defendants to the suit, and tender to the security or securities, his, her or their executors or administrators, other good and sufficient collateral security to be approved of by the court before whom the suit shall be depending.

123. Sect. V. In all cases where judgment hath been or shall hereafter be entered up in any of the courts of record in this territory, against any person as bail for the appearance of another, to defend any suit depending in such court, and the amount of such judgment or any part thereof hath been paid, or discharged by such bail, his, her, or their heirs, executors or administrators, it shall and may be lawful for such bail, his, her or their heirs, executors or administrators, to obtain judgment by motion against the person or persons for whose appearance they were bound, his, her or their heirs, executors or administrators, for the full amount of what shall have been paid by the said bail, his or her heirs, executors or administrators, in any court where judgment may have been entered up against such bail: *Provided always*, That no judgment shall be obtained by motion as aforesaid, unless the party or parties against whom the same is prayed shall have ten days previous notice thereof.

ACT of December 7, 1811. (Stat. p. 27.)

124. Sect. I. The sheriff of every county within this territory, shall on or before the first day of the next superior and county courts of their respective counties, and every two years thereafter, furnish to the clerks of said courts severally, a list of the freeholders and householders within his county; which list shall be filed in the office of the clerk of the court to which the same is furnished; and the names so returned, shall be put in a box to be kept by the clerk for that purpose.

Sect. II. There shall be drawn by the clerk and sheriff of the superior and county courts within this territory, in open court one by one, after the names are shaken together by the clerk for each of the superior courts, thirty-six jurors, and for each of the county courts, fifteen jurors, which shall be entered on the minutes of said court; and the clerk shall issue a *venire facias* for the jurors so drawn, returnable to the next term of said court; and it shall be the duty of the sheriff at least five days before the term, to summon the jurors so drawn, either by summoning them personnally, or leaving a written notice at their usual place of abode to attend accordingly; and every juror who being summoned as aforesaid, and who shall not attend, shall be liable to a fine, not exceeding twenty dollars, unless a good cause for his non-attendance be shewn on or before the first day of the next regular term of the court after such non-attendance: *Provided*, Good cause be shewn by such delinquent juror, the fine imposed shall be remitted without payment of cost.

125. Sect. III. From the whole number of jurors attending the superior court of any county, and summoned as aforesaid, there shall be drawn by lot, not less than thirteen, nor more than eighteen, who shall constitute the grand jury for the term of the court to which they are summoned, and the residue shall serve as travers jurors during

such term: *Provided*, That travers jurors where the title of land is in issue, shall be composed of freeholders, and that when from challenges, or other causes, there shall be defect of jurors, the sheriff shall by order of the court, return a sufficient number of qualified by-standers to complete the pannel; but, if the sheriff be interested, the return of qualified by-standers shall be made by such disinterested person as the court shall appoint.

126. SECT. IV. After they have drawn from the jury box, the number of jurors required by this act, the names so drawn shall be put into another box to be kept by the clerk of the court for that purpose, where they shall remain until the whole of the names are drawn out of the jury box first mentioned, when they shall again be put in the box from which they were drawn; and, if the clerk or sheriff shall use any fraud, collusion, or partiality in drawing jurors, such clerk or sheriff shall be deemed guilty of a misdemeanor, and shall be punished accordingly.

127. SECT. V. The jury boxes aforesaid, shall be furnished by the different clerks, and secured with sufficient locks, to which no person but the clerk and sheriff in drawing the jury shall have access, and the same shall be a county charge.

128. SECT. VI. Whenever any superior or county court shall not have been holden in any county in this territory, as required by law, or if when held, they should neglect to draw the number of jurors required, the sheriff and clerk of the court where such failure may happen, shall, in presence of one of the justices of the quorum, at least thirty days previous to the next term of said court, proceed to draw one by one from the jury box, the number of jurors required for said court; and if any justice of the quorum shall neglect or refuse to attend for the aforesaid purpose, having been by the sheriff thereunto required, that then it shall be the duty of the clerk and sheriff to draw the same, and the clerk shall issue a *venire facias* for the jurors so drawn, as if the same had been done in open court.

SECT. VII. At the time any jurors are drawn by lot from the jury box, as directed by this act, it shall satisfactorily appear to the officers drawing the same, that the persons drawn, or any of them have removed from the county, or are deceased since the jury list was made out, then, in such cases the tickets so drawn, shall not be included in the number of jurors directed by this act to be drawn, but they shall proceed to draw other jurors until the number is complete, as directed by law.

129. SECT. VIII. All persons who have made the first payment on purchase of lands from the United States, together with donation and pre-emption claimants shall be deemed, and held to all the purposes of this act, freeholders.

Sect. IX. *Expired.*

130. **Sect. X.** The eighteenth section of an act, entitled "An act for the appointment of justices of the peace, and the establishment of county courts," an act, entitled "An act to amend an act regulating the mode of summoning juries, and for other purposes," the first, fifth and sixth sections of the act, entitled "An act concerning juries," the first, second, third, fourth, fifth, tenth and eleventh sections of the act, entitled "An act regulating the mode of summoning juries, and for other purposes;" *Also*, so much of the seventh section of the last mentioned act as allows a special jury in Washington district, together with all other acts and parts of acts, which come within the purview and meaning of this act be, and hereby are repealed.

ACT of December 18, 1811. (Stat. p. 84.)

131. **Sect. I.** On the return of a *capias ad respondendum*, against any person or persons, legally liable to be sued in the court, from which such writ may issue, that the defendant or defendants is or are not to be found, in addition to the provisions, already made by law, the plaintiff or plaintiffs may have a *testatum capias* or judicial attachment to any other county, which process shall be executed according to its commands, and returned to the court, from which the same issued, as in other cases: *Provided*, Nothing in this section, shall extend to any but such actions, as are termed in law, local actions.

132. **Sect. II.** Before every superior or county court, the clerks of the said courts shall enter in a particular docket, all such causes (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict case agreed, or demurrer, or other matter of law is to be argued, in the same order, as they stand in the course of proceeding, setting as near as may be, an equal number of causes to each day, and no cause shall be taken up for trial or hearing, at a day, previous to that for which it may be set; and the clerk shall issue *subpœnas*, for witnesses to attend on the days, on which the causes stand for trial, and that no witness shall be bound to attend in any cause, unless specially summoned to each term; and it shall be the duty of the clerk, to keep a regular subpœna docket, and to issue subpœnas before every term of the court, for all the witnesses in every cause, that either party may at any time have directed to be summoned.

133. **Sect. III.** Whensoever any suit shall be commenced in any of the courts of this territory, having jurisdiction thereof, founded on any writing, whether the same be under seal or not, the court before whom the same is depending, shall receive such writing as evidence of the debt or duty for which it was given, and it shall not be lawful for the defendant or defendants in any such suit, to deny the execution of such writing, unless it be by plea, supported by the affidavit of the party putting in such plea, which affidavit shall accompany the plea,

and be filed therewith, at the time such plea is filed, which affidavit may be made before any justice of the peace, or before the clerk of the court where such suit may be depending.

134. Sect. IV. Whensoever any suit is depending in any of the courts of this territory, founded on any writing, under the seal of the person to be charged therewith, it shall and may be lawful for the defendant or defendants therein, by a special plea to impeach, or go into the consideration of such bond, in the same manner as if the said writing had not been sealed, any law to the contrary notwithstanding.

135. Sect. V. In all actions to be commenced in any court of record in this territory, and founded on any specialty, bill, or note, in writing, signed by the defendant, or on the judgment of any court, foreign or domestic, and the nature of such action endorsed on the writ, attested by the clerk, or attorney for the plaintiff, setting forth the dates of such specialties, bills, notes, or judgments, and the sum or sums which appear thereby secured and unpaid, the defendant or defendants shall be held to bail of course, for the sum or sums so endorsed; and in all actions of account, covenant broken, and actions founded on verbal contracts and assumpsit in law, in which the plaintiff or other credible person can ascertain the sum or sums due, or damages sustained, and either of them make affidavit thereof, to the best of his or her knowledge and belief, the clerk of the court, in which the writ issues, or the attorney for the plaintiff shall endorse on the writ, the sum so sworn to, and the defendant or defandants shall be held to bail for the sum or sums so endorsed by the clerk or attorney for the plaintiff, or attested by the justice of the peace taking such affidavit; and it shall be the duty of the plaintiff or his attorney, or the clerk, to file such affidavit forthwith, in the clerk's office from which such writ may issue, and in actions sounding merely in damages, where the same cannot be ascertained as aforesaid, the defendaut or defendants shall not be held to bail, except by order of the court, or some one of the judges or justices thereof, upon sufficient cause shewn by the affidavit, and such order, and the sum for which bail is required, be endorsed on the writ by the court, judge or justice: *Provided*, That executors and administrators, when sued in such capacity, and persons sued on such penal statutes as do not expressly require bail, shall not be held to bail in such suits.

136. Set. VII. It may be lawful for any justice of the peace, upon complaint to him made, by any person or persons, to issue attachments, under the rules and regulations prescribed and required by law, and make the same returnable to any court where the same is cognizable.

137. Sect. VIII. If any person resident in this territory, shall institute any suit, whether at common law or in chancery, in any of the courts of this territory, and shall after the institution thereof remove out of this territory, such person shall be bound to give security for the cost of such suit, in the same manner and under the same restric-

tions pointed out for non-resident plaintiffs, in the ninth section of the act, entitled, "an act establishing the fees of the several officers therein named, and for other purposes," passed the 6th day of February, one thousand eight hundred and seven.

Sect. IX. *Repealed December* 24, 1812.

138. Sect. X. All private acts of assembly may be given in evidence without being specially pleaded, and as printed with the general acts of the legislature.

139. Sect. XI. Papers read in evidence to the jury on the trial of any cause, though not under seal, may be carried from the bar by the jury.

140. Sect. XII. Judgment on confession shall amount to a release of errors.

141. Sect. XIII. Interpreters may be sworn truly to interpret, when necessary.

142. Sect. XIV. After issue joined, in an ejectment on the title only, no exception to form or substance shall be taken to the declaration in any court.

143. Sect. XV. The law of costs shall not be interpreted as penal laws.

144. Sect. XVI. If any party in any suit at common law, or in chancery, shall make oath that he verily believes his claim or defence, (as the case may be) or a material point thereof depends on a single witness, the court, or the clerk in vacation, may award a commission to take the deposition of such witness, *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case, giving reasonable and usual notice of the time and place of taking such deposition to the adverse party.

145. Sect. XVII. *And whereas*, Great inconvenience may be to the suitors in the several courts in this territory, who are litigant with persons who may have absconded, or who reside without the limits of this territory, and have not an agent or attorney within the same, by the death or removal of witnesses, or by non-resident witnesses, whose deposition cannot be taken for want of notice to such absent party, therefore—*Be it enacted*, That when any commission shall be obtained to take the deposition of a witness, in a suit depending in any of the courts of this territory, where the plaintiff or defendant in such suit doth not reside within the same, or hath not an agent or attorney within the same, to whom notice of the time and place of taking such deposition can be given, then the person obtaining such commission, having

published in any public newspaper printed within the city of Natchez, four weeks successively, the time and place, when and where the witness is to be examined, and the name of the witness, together with the name of the parties to the suit in which such witness is to be examined; it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition authorised by the commission issuing from the court agreeable to law, where the suit depends as aforesaid; and such deposition when taken and returned to the clerk's office agreeable to the rules of law and of the court from whence the commission issued, shall there be filed and allowed to be read in evidence, in the same manner and under the like restrictions as if notice had been duly given to the opposite party; any law, usage, or custom, to the contrary in any wise, notwithstanding. And the printer may demand and receive his usual allowance for publishing such advertisement four weeks, which shall be taxed in the bill of costs, as other costs of suit.

146. Sect. XVIII. The intermediate courts for the county of Warren, instead of the times heretofore appointed by law, shall after the first Monday in January next, be held on the second Monday in April and October.

147. Sect. XIX. The action of trover shall, and is hereby declared to survive, for and against executors and administrators, with the same effect that it might or could have been had or maintained against any testator or intestate; any law, usage or custom to the contrary, in any wise notwithstanding.

148. Sect. XXI. No executor or administrator shall be liable, out of their individual estate, for not pleading, mispleading, or false pleading in, or to any action whatever, which may be brought against them as such.

149. Sect. XXII. Whenever any person may be committed to the jail of any county within this territory, in any civil suit, whether upon original, mesne or final process, the jailor of such county shall be entitled to demand and receive of the plaintiff or plaintiffs, weekly, all fees that may become due to him, as well as for finding sustenance for such prisoner, and in case of failure, on the part of the plaintiff or plaintiffs, to pay the same, such jailor shall be authorised to discharge such prisoner out of jail: *Provided*, The jailor shall have given to such plaintiff or plaintiffs, his, her or their agent, or attorney, ten days previous notice thereof: *Provided also*, That such discharge shall not go to exonerate any defendant, so discharged out of custody, from the debt for which he had been in confinement, but the same shall be as if the defendant had never been committed to jail.

Sect. XXIII. *Repealed January* 22, 1814.

150. Sect. XXIV. In all actions which shall be brought upon any penal bond or bonds for the payment of money, wherein the plaintiff

shall recover, judgment shall be entered for no more than the principal and interest due on said bond.

151. Sect. XXV. When partial payments are made on bonds, contracts, or assurances for the payment of money or property, that bear interest, agreeably to the laws of this territory, the interest that has then accrued, shall be first credited, and the balance of such partial payment shall be placed to the payment of the principal.

152. Sect. XXVI. All debts due by the judgment, sentence, or decree of any court, shall hereafter bear interest in the same manner as other debts.

153. Sect. XXVII. Where any person now is, or hereafter may be in custody, upon original or mesne process, such person shall be entitled to the benefit of the provisions of the act, entitled, "an act concerning executions, and for the relief of insolvent debtors," in the same manner as is therein provided for persons charged in execution: *Provided nevertheless*, That no plaintiff in any suit against any person, who may have availed himself or herself of the provisions of the aforesaid act, and who shall not have obtained final judgment against such defendant taking the benefit of the aforesaid act, shall receive any part of the proceeds of the estate of such prisoner, in the distribution thereof to the prejudice of any person, who may have charged the same prisoner in custody upon execution.

154. Sect. XXVIII. The judges of the superior courts of law and equity shall have power in vacation to examine all answers to bills in chancery; and if any defendant or defendants have been held to bail, any judge, on application, may, and he is hereby authorised to reduce or discharge such bail, so taken as aforesaid.

155. Sect. XXX. Each and every witness summoned in any cause in this Territory, shall be authorised to demand of the party at whose instance such witness was summoned, at the expiration of each term, his compensation for attending as aforesaid, and if the party shall refuse or neglect to pay such witness, he, she or they may bring suit and recover the same, before any justice of the peace or court of record having jurisdiction thereof, upon the certificate of the clerk, stating the number of days such witness attended, and the amount he is entitled to receive for the same; which certificate the clerk is hereby required to give at any time, upon the application of a witness, and the party paying the same may file said certificate with the receipt of the witness for his compensation, in the clerk's office.

ACT of December 18, 1811. (Stat. p. 106.)

156. Sect. I. There shall be held, in the county of Greene, a superior court, at the times herein after named, by the judge of the

superior court for Washington district; there shall also be held a superior court in the county of Marion, at the times herein after named, by the judge or judges of the superior courts, west of Pearl river.

157. Sect. II.* The superior courts for the counties of Greene, Wayne, Washington, Baldwin, Marion and Madison, shall be held at the times following, to wit: For the county of Greene, on the first Monday in March and September; for the county of Wayne, on the second Monday in March and September; for the county of Washington, on the third Monday in March and September; for the county of Baldwin, on the first Monday in April and October; for the county of Madison, on the second Monday in May and November; and for the county of Marion, on the second Monday in December and June, annually; which courts, except the court for the county of Madison, may continue to be held six judicial days, at each term, and no longer, and the superior court of Madison county may continue to be held twelve judicial days, at each term, and no longer.

Sect. III.† There shall be held in the counties of Greene, Wayne, Washington, Baldwin, Madison and Marion, a county court, at the times herein after mentioned: In the county of Greene, on the first Monday in July and January; in the county of Wayne, on the second Monday in July and January; in the county of Washington, on the third Monday in July and January; in the county of Baldwin, on the fourth Monday of July and January; and in the county of Madison, on the second Monday in July and January; and in the county of Marion, on the fourth Monday in February and August, annually; which said courts may each continue to be held six judicial days, and no longer at each term.

Sect. IV. There shall be held an intermediate court, for county purposes, within the counties aforesaid, at the times following, to wit: For the county of Greene, on the first Monday in April and October; for the county of Wayne, on the second Monday in April and October; for the county of Washington, on the third Monday in April and October; for the county of Baldwin, on the fourth Monday in April and October; and for the county of Madison, on the third Monday in May and November; which said courts may continue to be held two judicial days, and no longer.

158. Sect. V. The county courts, within the counties aforesaid shall have exclusive original jurisdiction of all suits where the sum, or the value of the matter in controversy, does not exceed two hundred dollars, in the same manner and under the same rules and regulations by which the county courts, west of Pearl river, are governed.

Sect. VI. and VII. *Expired.*

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* Time of holding courts altered—*vide post.*

† Time of holding Marion county court, altered—*vide post.*

159. Sect. VIII. Hereafter the superior court of law and equity and the county court of Adams county shall, and they are hereby authorised to prolong their sessions, respectively, one week beyond the time now allowed by law, if the business in said courts require it.

160. Sect. IX. The superior and county courts of Franklin county shall, in future, continue to be held six judicial days at each term, and no longer.

Sect. X. *Expired.*

ACT of December 18, 1811. (Stat. p. 110.)

161. Sect. I. On writs of error, if the judgment, sentence or decree be affirmed in whole, the plaintiff in error, shall pay to the defendant in error, ten per cent damages on the sum due, with lawful interest from the day of rendering the judgment so affirmed, besides the costs of the original suit and writ of error.

ACT of December 18, 1811. (Stat. p. 111.)

162. Sect. I. The judges of the superior court shall, after the passage of this act, have original jurisdiction, where a majority of the justices of the county court are indebted to any person or persons, or where any person or persons are indebted to a majority of the justices of the county court; and it shall be the duty of the clerks of the superior courts, to issue his writ accordingly, any law to the contrary notwithstanding.

ACT of November 30, 1812. (Stat. p. 12.)

163. Sect. I. The county courts of Madison county shall hereafter continue to be held, twelve judicial days at each term, and no longer.

ACT of December 10, 1812. (Stat p. 19.)

164. Sect. IV.* There shall be holden in the county of Clarke, a superior court of law and equity, on the third Mondays of April and October, to continue to be holden six judicial days, at each, and no longer, and there shall be holden in said county, a county court, commencing on the first Mondays in February and August annually, to continue to be holden six judicial days and no longer; there shall be holden in said county, an intermediate court for county purposes, to be holden on the first Mondays of May and November, and continue two days at each term, and no longer.

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*Time of holden superior court, altered—*vide post.*

ACT of December 19, 1812. (Stat. p. 37.)

165. Sect. I. All future intermediate courts in the county of Franklin, shall be held on the third Monday in May and fourth Monday in November, in each and every year.

ACT of December 18, 1812. (Stat. p. 40.)

166. Sect. VIII.* There shall be held a superior court of law and equity in the county of Mobile, on the third Monday of April and October, and in the county of Jackson, on the fourth Monday of February and August, annually, by the judge of the superior court for Washington district, which courts may continue to be held six judicial days each term, and no longer.

167. Sect. IX.† There shall be holden in the county of Hancock, a superior court of law and equity, on the second Monday in May and October, annually, by one of the judges appointed for the Mississippi Territory, which court may continue to be holden six judicial days at each term, and no longer. There shall be holden in the county of Hancock, a county court, on the second Monday in February and August, annually, which court may continue to be holden six judicial days at each term, and no longer, and an intermediate court for county purposes, on the second Monday of April and September, annually, which court may continue to be held two judicial days at each term, and no longer.

168. Sect. X. There shall be held in the county of Mobile, a county court, on the third Monday of July and January, and in the county of Jackson, a county court on the fourth Monday of May and November, annually, which courts may continue to be holden six judicial days at each term, and no longer. There shall also be holden an intermediate court for county purposes, in the county of Mobile, on the third Monday of April and October, annually, and in the county of Jackson on the fourth Monday of August and November annually, which courts may be holden two judicial days at each term, and no longer.

ACT of December 18, 1812. (Stat. p. 52.)

169. Sect. III. In all actions founded on any writing ascertaining the plaintiff's demand, or sum sued for, if judgment by default, nihil dicit, or by non sum informatus, or on demurrer entered therein, the court where the same action shall be pending, shall and may lawfully

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*Time of holding court, altered—*vide post.*

†Time of holding courts, altered—*vide post.*

enter judgment for the debt or demand, and interest thereon, to be calculated by the clerk of such court, up to the time of rendering judgment, without the intervention of a jury, to enquire of the damages, and award execution thereon, as in other cases.

170. Sect. IV. Where any person or persons shall institute any suit in the name of any other person or persons, for his or their own use and benefit, that the death of such person or persons in whose name or names the suit or suits are instituted, shall not abate such suit, but the same shall progress, and be tried in the same manner as though such suit was actually brought in the name of the person or persons for whose use the same was instituted.

ACT of December 23, 1812. (Stat. p. 59.)

171. Sect. VI. Hereafter the sheriff or coroner of each and every county shall sell all property, which shall be sold by virtue of any execution, at the court-house of the proper county, if the property can conveniently be removed there, otherwise at some other convenient place; and every constable shall sell all property, which he may sell by virtue of any execution, at or near the residence of the debtor, and in all cases the proper officer shall give at least ten days previous notice of the time and place of sale, by advertisement set up near the residence of the debtor, and in cases of sales made by a sheriff or coroner at the court-house of the proper county.

172. Sect. IX. Hereafter, lands, tenements and hereditaments, shall be subject to the payment of all judgments or decrees of any court of error within this Territory, and the clerk of such court shall frame the execution accordingly, and in all cases the sheriff or other officer levying such execution on real estate shall give at least thirty days notice of the time of such sale, and the sale shall be at the court-house of the county in which such land may lie: *Provided*, That courts holden by justices of the peace shall not be deemed courts of record, within the meaning and provisions of this act, and the sheriff or other officer selling any real estate shall make a —— title to the purchaser, which title shall vest in the purchaser all the right, title and interest which the defendant had in and to such real estate, either in law or equity.

ACT of December 21, 1812. (Stat. p. 75.)

173. Sect. I. Hereafter, for the trial of slaves charged with treason, felony, or other crimes, or misdemeanors, any three justices of the quorum, or any two justices of the quorum with one or more justices of the peace, (excepting always the justice who committed the slave) shall constitute a competent court; and when any slave or slaves, charged with any crimes as aforesaid, shall be regularly committed to the jail of any county, it shall be the duty of the sheriff of

such county within not less than five, nor more than ten days after such commitment to summon a court as aforesaid, and also a jury of good and lawful men of the vicinage, not being the master of such slave or slaves, or related to the master or prosecutor of such slave or slaves in any degree which would be a cause of challenge to a juryman in a trial of a free person ; and such court and jury shall proceed in the trial of the said slave or slaves, without presentment, or indictment, and pass sentence, and order execution thereof, in manner prescribed by law.

174. Sect. II. The court shall in all cases have power to appoint counsel, on the part of the prosecution, with a fee of ten dollars, the clerk's certificate of such appointment and service, shall be a sufficient authority for the auditor of public accounts to issue his warrant for the same on the territorial treasury.

175. Sect. III. So much of the fifty-seventh section of an act entitled, " an act for the punishment of crimes and misdemeanors," as comes within the purview and meaning of this act, be, and the same is hereby repealed.

ACT of December 24, 1812. (Stat. p. 88.)

176. Sect. I. Every person hereafter appointed clerk, or deputy clerk, of any court in this territory, shall, at the time of admission to such office, take the following oath in open court, viz : " I, A. B. do " swear, that I will well and truly exercise the office of " according to the best of my skill and judgment, making due entries, " and records of all orders, judgments, decrees, opinions and pro" ceedings of the court, and carefully filing and preserving in my said " office all books and papers whatsoever, which shall be delivered to " me in charge, or otherwise come to my hands, or possession, by virtue " of my said office ; that I will not wittingly or wilfully commit any " malfeasance in office, but in all things, and at all times, keep my " said office free and accessable to any person having a right or claim " to business therein, and faithfully execute the duties thereof, without " favor, affection, or partiality. So help me God.' And if any person shall presume to execute the office of clerk or deputy clerk of any court, without taking such oath, he shall forfeit and pay a sum not exceeding one thousand dollars, and suffer one year's imprisonment without bail or mainprize.

177. Sect. II. If any clerk shall wittingly make any false entry, or raze a letter, or change any record in his keeping, belonging to his office, every such clerk so offending shall be amerced and imprisoned, at the discretion of a jury, and shall moreover be liable to the action of the party aggrieved.

178. Sect. III. Every clerk shall, at the time of his admission and qualification as aforesaid, enter into bond with security,

to be approved of by the court, in the penalty of five thousand dollars, payable to the Governor and his successors for the time being, with condition for the due and faithful execution of his office, and that he will not remove or carry, or suffer to be removed and carried out of the county, (where he is clerk of the county court) or district (where it is a superior or other court of which he is clerk) the records and papers of the court whereof he is clerk, any part thereof except in cases allowed by law, which bond shall by such clerk be recorded and then delivered to the presiding judge of the court, and be by him transmitted to the secretary's office, within three months after it is so executed, there to be registered, and safely kept, among the papers of his office, and may be prosecuted upon, and the penalty thereof recovered against any such clerk, for any malfeasance in office; and any clerk presuming to execute his office without first entering into such bond, shall forfeit and pay one thousand dollars, and suffer three months imprisonment. A copy of such bond shall be good in evidence, and have the same validity as the original, if it were present in court.

179. Sect. IV. It shall not be lawful for the court of any county, or the clerk of such court, to remove, or cause to be removed, the records and papers of the same, or any part thereof, without the county, except in cases of actual invasion or insurrection, where, in the opinion of the court, the same will be endangered, or where for want of such opinion, by the suddenness of the alarm, or danger, the clerk shall at his own discretion remove the same, returning them as soon as the alarm or danger ceases, or except in cases also provided for by law.—Any member of a court, or the clerk of the same, so offending herein, shall be deemed guilty of a misdemeanor in office, and forfeit therefor and pay the sum of one thousand dollars.

180. Sect. V. The clerk of every court shall enter in a docket or book to be kept by him for that purpose, a list of all executions by him issued, specifying therein the names of the parties, the amount of the judgment, interest and costs, distinctly, in such execution, the name of the person to whom it is delivered, to what county directed, the date when issued and the return-day thereof, and when the same is returned, shall without delay record the return at large, on the same page, or folio, on which the execution is entered, and shall constantly carry the said book to the court of which he is clerk.

181. Sect. VI. It shall be the duty of each and every clerk of a court, to make out and certify to the auditor of public accounts, and county treasurer, respectively, a fair abstract of all fines, amercements and penalties, which shall be assessed, had or recovered in his court, immediately after the end of every term, specifying therein the names of the persons, the amount of the judgment, and offence for which the recovery is had, and shall within one month after the rising of such court, cause the same to be transmitted to the auditor and county treasurer respectively.

182. Sect. VII. Whereas, several of the clerks of the county courts, as also the clerks of other courts, in this territory, have neglected to record deeds, wills, and other matters of consequence, in due season, and have carelessly and confusedly kept the files of papers in their offices, and have neglected to make out proper indexes of the matters recorded, whereby great injury may ensue to persons concerned: that it shall be the duty of the justices of the county courts, and of the judges of every other court, under whatever name or style the court may be known, once in every year to appoint some of their own body, or other fit persons, who will undertake the duty to inspect the clerk's office of such court, and to make report *instanter*, or to the next court thereafter, the condition in which they find the records and books, and papers belonging to such office, which report shall be entered of record in the court; and where it shall oppear by such report, that any clerk has neglected to record any deed, will, or other matter proper to be recorded in his office, within a reasonable time after the same shall have been lodged with such clerk, to be recorded, or shall neglect to make out and keep a fair correct index to the matters recorded in each and every book, or shall neglect to keep in regular file all the papers belonging to his office, keeping every subject matter in its proper and peculiar file, and the papers of each suit together, or shall fail to have complete records made up in due form in all causes in which a final judgment may have been rendered within three months after the judgment or decision in such cause; in every such case the clerk so offending shall be deemed guilty of a breach of his duty, and is hereby declared liable as in case of malfeasance in office.

183. Sect. VIII. Each and every clerk of the county, or other courts of this territory, shall at the first term of the court of which he is clerk, after this act shall commence and be in force, take the oath and give bond as by this act is directed, in case of clerks hereafter to be appointed, and in case of neglect or refusal to comply with the requisites of this section, each and every clerk neglecting or refusing, shall forfeit and pay a sum not exceeding one thousand dollars.

184. Sect IX. Whenever the office of clerk to any court shall become vacant by any cause whatsoever, the records, papers, books, stationery and every thing belonging or appertaining to the same, shall be delivered over to the successor in office, by the person or persons having the same, whenever demanded, under the penalty of five thousand dollars, to be recovered against such person, and every of them, so detaining the same, or any part thereof, and it is hereby declared to be the duty of such successor, to demand, receive, and take into his care and safe keeping, all the records, books, papers, stationery, and every other matter and thing, appertaining to the office of which he is appointed successor; and in case of refusal, or detention of them after demand as aforesaid, he shall moreover give information thereof to the attorney-general, who shall prosecute accordingly.

ACT of December 24, 1812. (Stat. p. 121.)

185. Sect. I. From and after the passing of this act, when the sheriff of any county in this territory shall return on any execution, "that there is no property to be found in his county belonging to the defendant," and it shall be suggested by the plaintiff, that the defendant has property in his own right, but hath fraudulently conveyed the same for the purpose of defrauding his creditors, or to avoid the payment of the execution, notice in the nature of a *scire facias* shall be directed by the court to issue to the person or persons in whose hands such property is supposed to be, or having such fraudulent conveyance, and on the return of the *scire facias* being executed, as in other cases, an issue shall be made up, and tried by a jury, and if the jury shall find the conveyance to be fraudulent, or without valuable consideration, the property thus fraudulently conveyed or made over, shall be subject to the plaintiff's execution, in the hands of the defendant, or the person or persons thus notified.

186. Sect. II. When any garnishee shall be summoned into court, and on his or her garnishment, deny that he or she owes to, or has any of the defendant's property in his or her hands, and the plaintiff in such attachment shall on oath, state his belief that such garnishee does owe to, or has property in his hands belonging to the defendant, the court shall order an issue to be made up, which shall be tried by a jury, and the court shall give judgment on their verdict as in other cases.

187. Sect. III. The act to amend and reduce into one the several acts to prevent the evil practice of gaming, is not to be understood and construed as respecting the first section of an act to prevent the evil practice of gaming, passed the fourth day of February, in the year eighteen hundred and seven, but that the same shall be in full force and effect.

ACT of December 24, 1812. (Stat. p. 141.)

188. Sect. I. No judgment shall be entered against any sheriff or other officer, upon any suit brought upon the escape of any debtor in his or their custody, unless the jury who shall by the issue in the cause shall expressly find that such debtor or prisoner did escape, with the consent, or through the negligence of such sheriff or other officer, or officers, or that such prisoner might have been retaken and the sheriff and his officers neglected to make immediate pursuit.

189. Sect. II. In all actions where bail is required, and where any original process in such cases returned, executed, and if the defendant shall fail to appear according to the commands thereof, the bail in such action may defend the suit, and shall be subject to the same judgment, and recovery, as the defendant might or would have been subject to, and in actions of detinue the bail shall be subject to the

restitution of the thing sued for whether animate or inanimate, or the alternate value according to the judgment of the court, and the bail piece shall be so altered in such cases as to authorise the bail, in addition to the privileges already allowed him by law to restore the thing sued for, and if the sheriff in such cases shall not take or return bail as required of him, or the bail returned shall be judged to be insufficient by the court, and the defendant shall fail to appear, and give bail in such case the sheriff in addition to the privileges already allowed him by law shall have the like liberty of defending such action, and shall be subject to the same recovery, as is provided above for the bail; and if the sheriff depart this life before the judgment be confirmed against him in such case the judgment shall be confirmed against his executors or administrators, or in case there be no executors or administrators, or no certificate of probate, or administration granted then judgment may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued in the name of such deceased sheriff as if he were living, and be levied on his estate.

190. Sect. III. The true intent and meaning of the fifth and seventh sections of an act entitled "An act concerning bail in civil cases," published in the Digest of the laws of this Territory, as to the privilege of the bail in surrendering his, or their principal is, and shall be construed to be that the bail shall have liberty at any time before final judgment obtained against him on a *scire facias*, to surrender to the court from which such process issued, or to the sheriff returning such process during the sitting of such court, or to the sheriff in the recess of such court, the principal in discharge of himself and the bail in any action shall have a right to plead in bar to any *scire facias* against him, her or them, the death of the principal at any time previous thereto, and if on the trial of any such issue, it shall be found that the principal is not living, judgment shall be given in favor of the defendant to such *scire facias*.

191. Sect. IV. In all cases where by the division of any county, new counties have been established, and in the establishment of all future counties, all unfinished business in the courts of such county previous to such division, which would be properly cognizable in the courts of such newly established county, whether of suits, probate matters, or other business shall be transferred to the proper court of such new counties, to be there acted on, and determined as if they had therein originated.

Sect. V. *Expired.*

Sect. VI. *Repealed January* 22, 1814.

192. Sect. VII. Where any sheriff shall levy execution on property claimed by any person, not a party to such execution, such person may make oath to such property, and it shall thereupon be the duty

of the sheriff to postpone the sale or further execution of the judgment until the next term of the superior court of the county in which such execution is so levied and such court shall require the parties concerned, to make up an issue under such rules as they may adopt, so as to try the right of property before a jury at the same term, unless special cause be shewn to induce the court to continue the same for one term, and no longer, and the sheriff shall make return on said execution accordingly, provided, that the person claiming such property or his attorney shall give bond to the sheriff with security in a sum equal to the amount of the execution, conditioned to pay the plaintiff all damages which the jury on the trial of the right of property may assess against him in case it should appear, that such claim was made for the purpose of delay, and the jury shall have power to give such damages, not less than ten per cent, as may seem reasonable and just to the plaintiff, against the claimant: in case it shall be sufficiently shewn that such claim was intended for delay only, and it shall be lawful for such jury to give verdict in manner aforesaid by virtue whereof judgment may be entered up and execution issued against such claimant: *And provided also*, That the burthen of the proof shall be upon the plaintiff in the execution, and it shall be the duty of the sheriff to return the property levied upon to the person out of whose possession the same was taken upon such person entering into bond, with security to the plaintiff in execution in double the amount of the debt and costs, conditioned for the delivery of the property to the sheriff whenever the claim of the property so taken shall be determined by the court, and if any person to whom property is so returned shall neglect or refuse to deliver the property to the sheriff, it shall be the duty of the sheriff forthwith to return the bond to the clerks office of the superior court, which bond shall have the force and effect of a judgment, and execution may be awarded by the court against all or any of the obligors on having ten days notice thereof.

193. Sect. VIII. All certificates issued in pursuance of any act of congress by any of the boards of commissioners, register of a land office, or any other person duly authorised to issue such certificate upon any warrant, or order of survey, or to any donation or pre-emption claimants, for any lands in this territory, shall be taken and received as vesting a full, complete and legal title in the person in whose favor the said certificate is granted to the lands therein mentioned, and his, her or their assigns so far as to enable the holder of such certificate to maintain any action thereon, and the same shall be received in evidence as such in any court in this territory.

194. Sect. IX. Any clerk may, and they are hereby authorised to require security for costs of non-residents before he issues any writ.

195. Sect. X. The courts of equity shall hereafter have jurisdiction in all cases of gambling consideration, so far as to sustain a bill for discovery, or to enjoin judgments at law.

ACT of January 15, 1814. (Stat. p. 9.)

196. Sect. I. Any slave may be tried for any offence not capital, by any justice of the peace on warrant, and may be sentenced to receive any number of stripes not exceeding one hundred, which sentence shall be executed by the constable: *Provided however*, that no slave shall be sentenced to receive more than thirty-nine lashes, unless two respectable slave holders, to be summoned by the justice for the purpose of trying said slave, concur with him in the sentence; and any such justice of the peace shall summon, and compel the attendance of all witnesses necessary to establish any fact, for or against such slave, and shall duly examine such witnesses.

Sect. II. Three justices of the quorum, or two justices of the quorum and one justice of the peace, and in case there be no justices of the quorum convenient, then three justices of the peace shall hold a court, at the court-house of the county, for the trial of any slave charged with a capital offence, and the clerk of the superior court of the county in which such court may sit, shall attend it, and make a record of its proceedings, and shall issue all necessary subpœnas for such slave, as well as for the territory, to compel the attendance of witnesses, and shall charge the usual fees, to be paid by the territory.

Sect. III. In case any justice of the quorum, or peace, when summoned by the sheriff, shall fail to attend, or having attended shall refuse to sit and hold court, such justice shall be returned by the sheriff to the next superior court, and fined at the discretion of such court, not exceeding fifty dollars, and the sheriff shall summon another to supply such vacancy, and shall charge his usual fees for summoning witnesses payable by the territory.

Sect. IV. In case a court be called to try a slave on a charge of a capital nature, and it turn out in evidence that the crime is under that degree, such court may nevertheless go on to punish such slave by stripes or burning, as the case requires.

Sect. V. If any juror duly summoned refuses to attend or to sit and render a verdict in any case, when a slave is to be tried, such juror may be committed for a contempt during the day, and fined not exceeding twenty dollars.

197. Sect. VI. If any slave shall maim a free white person, or shall attempt to commit a rape on any free white woman, or shall attempt to commit any other capital crime, or shall be voluntarily accessory before, or after the fact, in any capital offence, or shall be guilty of the manslaughter of any free person, or shall be guilty of burning any dwelling house, out house, barn or stable, or shall be accessory thereto, or shall be guilty of any crime made capital by law, or shall be acces-

sory to any crime herein named, any such slave, shall, on conviction, suffer death.

198. Sect. VII. The fourth section of the act, entitled, "an act to amend the act for the punishment of crimes and misdemeanors," and the seventeenth section of the "act respecting slaves," and all other acts and parts of acts, coming within the purview of this act, be, and the same are hereby repealed.

ACT of January 15, 1814. (Stat. p. 21.)

199. Sect. I. A writ of attachment may in all cases issue against the property of an absconding debtor, whether the sum sworn to, be due or not; but no judgment shall be entered against the defendant in attachment, or execution issue to sell the property attached, until the debt is actually due, unless the property so attached, shall thereby appear to be of a wasting or perishable nature; then it shall be sold, giving the plaintiff his election to make a deduction of six per cent. on the amount of his debt, until due, or suffer the property attached to be sold by the sheriff, giving a credit until such time as the plaintiff's debt, or demand, shall become due, taking a bond payable to the plaintiff, with sufficient security for the amount of the sale, which bond shall be returned to the clerk's office on which execution may issue, as on a judgment of any court in the territory.

200. Sect. II. The respective courts may summon, and compel the attendance of any garnishee, from one county to another, who shall in all repects, be proceeded against in the same manner, as garnishees residing in the county, where the attachment is returnable.

ACT of January 20, 1814. (Stat. p. 23.)

201. Sect. I. The territorial judges, appointed or hereafter to be appointed, in pursuance of the ordinance for the government of this territory, shall hold at the court-house in Adams county, twice in every year, on the second Mondays of June and December; a court of record, to be styled, "The Supreme Court of Errors and Appeals;" which court shall be held by two at least of the said judges, but one judge may adjourn the same from day to day, for the space of four days, and shall continue to sit at each term, until all the business is disposed of: *Provided, however*, That it shall not be the duty of the judge of the district of Washington, or the judge of Madison county to attend said court.

202. Sect. II. In addition to the power, authority and jurisdiction already given and belonging to the several superior courts of law and equity in this territory, and to the superior court of Madison county, they, and each of them, shall have exclusive jurisdiction and cognizance of all actions and suits in which the value of the matter in con-

troversy shall exceed fifty dollars ; any law or usage to the contrary notwithstanding : *Provided however*, That for sums under two hundred dollars, the attorney's fee shall be the same as in the county court.

SECT. III Immediately after the passing of this act, all actions, causes, suits, process, and pleadings at common law, then depending and undetermined in, or returnable to the said several county courts, shall be transferred, and returned to the superior courts of law and equity, in their respective counties, and the said actions, causes, suits, process and pleadings, shall be proceeded on, tried and determined in said superior courts of law and equity, as if originally commenced therein ; and it shall be the duty of the clerks of the said county courts respectively, to transmit immediately, to the clerks of the superior courts of law and equity of their respective counties, all papers, records, process, minutes, pleadings, and other proceedings remaining in their respective offices, relating to any suits at common law for the recovery of any debt or damages, whether the same be proceeded on to judgment or not, and the same shall appertain to, and be made a part of the record of the said superior courts of law and equity, to which they may be transferred.

203. SECT. IV. Judges of the supreme court of errors and appeals, and each of them, shall have power and authority to issue forth writs of error to the several superior courts of law and equity, to remove any judgment or decree, either at common law or in chancery, into the said supreme court of errors and appeals ; and also writs of certiorari, habeas corpus, and all remedial and other writs and process, properly allowable by a judge of the supreme court of errors and appeals, returnable to the same ; and the said supreme court of errors and appeals shall hear and determine all manner of pleas, plaints and causes, both at law and in equity, which shall be removed and brought before it from any of the superior courts of law and equity ; and all causes, matters and things, cognizable in the same, but no cause shall be removed into the said supreme court of errors and appeals, until after final judgment in the court below, except where the judge or judges in the said court below shall doubt as to the law, or rule of decision, and in that case, he or they may respite the final judgment, and refer the question to the said supreme court of errors and appeals for their determination, and if the point or question does not appear on the record, it shall be the duty of the judge in the court below, to state the same in writing, and send it with the other proceedings in the cause to the said supreme court of errors and appeals, who shall have power and authority to grant judgment thereon, according to the right of the matter, and award execution ; except it be necessary in consequence of the determination of the said supreme court of errors and appeals, that facts be ascertained, or damages assessed by a jury, in which case the cause shall be remanded to the court from whence it was brought.

204. SECT. V. No writ of error shall be allowed by any of the

judges of the supreme court of errors and appeals, unless he shall be of opinion from an inspection of the record, judgment or decree, that there is good cause to reconsider the said judgment or decree, and no writ of error shall operate as a supersedias, nor shall any supersedias be granted of any judgment, unless the plaintiff or plaintiffs in error, first enter into bond with good and sufficient security, to be approved of by the judge granting the writ to the adverse party, conditioned for the payment of the judgment, damages, interest and costs in case such judgment shall be affirmed, and also for the performing the sentence, judgment or decree, which the supreme court of errors and appeals may render therein ; and in case the said supreme court of errors and oppeals, shall affirm entirely any judgment, or decree, brought before them, the plaintiff in error, if he be the defendant below, shall pay to the defendant in error, ten per centum damages on the amount due, with interest from the time of rendering the original judgment or decree.

205. Sect. VI. If in the trial of any cause, either the plaintiff or defendant shall think himself aggrieved by the direction or decision of any judge or judges of any of the courts in this territory, the party so considering himself aggrieved, may, in person or by his counsel, tender to the judge or judges giving such direction or decision, a bill of exceptions to his or their opinion, stating the points wherein he is supposed to err, and the said judge or judges shall be bound to sign and seal the same, and the said bill of exceptions so signed and sealed, shall be made and considered a part of the record in the cause, and in case the said judge or judges shall refuse to sign and seal the said bill of exceptions, if the facts therein are truly stated, he seall be deemed guilty of a high misdemeanor in office.

206. Sect. VII. A person of skill and probity shall be appointed by the governor, clerk of the supreme court of errors and appeals, who shall do and perform all those things that appertain to the duties and office of a clerk of said court, and he shall receive for his services the same fees which are allowed by law to the clerk of the superior court of law and equity for adams county for like services.

207. Sect. VIII. The sheriff of Adams county for the time being, shall be attendant on the said supreme court of errors and appeals, during the sitting thereof, and he shall be entitled to the same fees and compensation as are allowed in the superior court of law and equity of Adams county for like services.

208. Sect. IX. All writs of error heretofore issued from the superior court of Adams county, or which may hereafter issue from the said court to the superior courts of law and equity in the district of Washington, and in the county of Madison, in conformity to the act of congress in such case made and provided, may at the discretion of the judge or judges of the said superior court of Adams county, or at the

instance of either of the parties be heard and determined in the said supreme court of errors and appeals, which shall proceed therein in like manner, and render such judgment in the premises as the superior court of Adams county might or could have rendered; and it shall be the duty of the clerk of the said superior court of Adams county to transfer the record returned or sent up in such case, on such order or application, to the office of the clerk of the said supreme court of errors and appeals.

209. SECT. X.* From and after the first day of March next, the superior courts of law and equity for the counties of Warren, Claiborne, Jefferson, Adams, Wilkinson, Amite, Franklin, Mobile, Jackson, Hancock, Marion and Clarke, shall be held in each of the aforesaid counties twice in every year, at the places appointed by law for holding the same; and that the terms of the said several courts shall commence and be held as follow, that is to say: in the county of Warren, on the third Mondays of February and August; in the county of Claiborne, on the first Mondays of March and September; in the county of Jefferson, on the third Mondays of March and September; in the county of Adams, on the second Mondays of April and October; in the county of Wilkinson, on the second Mondays of May and November; in the county of Amite, on the third Mondays of May and November; in the county of Franklin, on the first Mondays of June and December; in the county of Clarke, on the fourth Mondays of March and September; in the county of Mobile, on the second Mondays of April and October; in the county of Jackson, on the fourth Mondays of February and August; in the county of Hancock, on the third Mondays of April and October; and in the county of Marion, on the fourth Mondays of March and September; and each term of said court shall be held for the space of twelve judicial days, if business so long continue, and no longer, except the superior court of Adams county, which may be held eighteen judicial days, and except also, the superior courts of the counties of Wilkinson, Amite, Franklin, Mobile, Jackson, Hancock and Marion; which may be held six judicial days, each, if business so long continue, and no longer. And all actions, suits, writs, process, pleadings, recognizances, and all other proceedings of what nature or kind soever, civil or criminal, commenced or to be commenced, and made returnable to any of the said courts, shall be continued, respectively, and shall be returned to, and have day, in the term of said courts next to be holden by virtue of this act.

210. SECT. XI. All acts and parts of acts coming within the purview and meaning of this act, be, and the same are hereby repealed.

ACT of January 22, 1814. (Stat. p. 40.)

211. SECT. I. From after the passage of this act, the clerks of the

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* Time of holding courts altered—*vide post.*

superior courts shall, on the first day of each term, administer the following oath to the traverse jurors, who shall be attending on said court, to wit: You and each of you do solemnly swear, (or affirm, as the case may be) that you will well and truly try all issues which shall be submitted to you and left to your decision by the court, during the present term, and true verdicts give according to the evidence. So help you God. Which oath, or affirmation, shall authorise the said jury to try all issues which may be submitted to them during that term of the said court, and talesmen, if any be summoned, shall in like manner take an oath to try all issues which may be submitted to them during the day.

212. Sect. II. Hereafter, the superior courts of law and equity for the counties of Adams, Wilkinson and Amite, shall draw from the jury box fifty-one jurors, to serve at the succeeding terms of said courts; and the clerks of the said courts, and the sheriffs of the said counties, shall draw from the jury box fifteen jurors, in addition to those already drawn, to serve at the ensuing terms of said courts.

213. Sect. III. It shall be the duty of the justices of the peace, to return all recognizances which may be taken by them, to the offices of the clerks of the superior courts of their respective counties, before the sitting of the court, on the first day of the term of the said court, under a penalty not exceeding fifty dollars, at the discretion of the court to which the same should have been returned, on motion of the attorney general: *Provided*, That the said justice shall have five days notice of such motion, and it shall be the duty of the attornies general respectively, to prefer all indictments within the three first days of the terms of each of the said superior courts.

ACT of January 22, 1814. (Stat. p. 50.)

214. Sect. I. The superior court of Wilkinson county shall sit twelve judicial days at each term, and the superior court of Amite county shall commence on the fourth Monday of May, and November annually, and all process shall be returned to said court accordingly.

ACT of January 22, 1814. (Stat. p. 52.)

215. Sect. I.* The county courts for the county of Hancock shall continue for one year to have original jurisdiction and cognizance of all actions and suits, which were cognizable in the said county courts before the passage of an act of the present session, entitled an act to regulate the several courts of this territory and to create a supreme court of errors and appeals in which the value of the matter in controversy shall exceed fifty dollars, Provided that nothing contaid in this

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* This act is repealed, as to all the counties except Hancock, on the 22d December, 1814.

section, or the act already recited shall be so construed as to deprive the county courts of the counties aforesaid, of jurisdiction in any suits or causes now depending and undetermined in the said county courts or either of them, or of appelate jurisdiction in all causes cognizable before justices of the peace.

Sect. II. Nothing in the above recited act, shall be so construed as to require the clerks of the county courts in the preceding section mentioned, to transfer any actions, causes, suits, process or pleadings depending in or hereafter returnable to the said county courts to the superior courts of law and equity in their respective counties, but that the duties, privileges and penalties of the said clerks shall be the same in every respect as though the act already recited had never passed.

Sect. III. Nothing in the act entitled " An act to regulate the several courts of this territory and to create a supreme court of errors and appeals, or in any other acts or parts of acts coming within the purview and meaning of this act, shall operate against the provisions of this act.

ACT of December 1, 1814. (Stat. p. 9.)

216. Sect. I. Each term of the superior court of Madison county may be held and continued for the space of eighteen judicial days, if business so long continue and no longer.

ACT of December 22, 1814. (Stat. p. 18.)

217. Sect. I * The superior courts of the counties herein mentioned shall be holden at the times following to wit: the county of Baldwin on the last Monday of February and August; in the county of Clarke on the first Monday of March and September; in the county of Washington on the second Monday of March and September; in the county of Wayne on the last Monday of March and September; in the county of Greene on the first Monday of April and October; in the county of Jackson on the second Monday of April and October; in the county of Mobile on the third Monday of April and October; which courts may continue to be holden six judicial days at each term except in the counties of Washington, and Mobile, which may continue to be holden twelve judicial days at each term and no longer.

Sect. II. All writs, precepts, and processes, now issued returnable to the superior courts heretofore established by law in any of the counties aforesaid, shall be returnable at the time pointed out by this act for said courts to be held, and all suits pending in said courts are

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* Time of holding Washington court, altered—*vide post.*

hereby declared to be in the same situation at the first terms of the courts established by this act, that they would have been at the first term of said court; provided the times of holding said courts had not been altered, and all suitors, witnesses, and jurors, are hereby declared to be liable for their non-attendance at the courts hereby established in the same manner they would have been, had no alteration of the time of holding said courts taken place.

SECT. III. The act entitled "An act to retain the power and jurisdiction of the county courts east of Pearl river, passed the twenty second day of January, eighteen hundred and fourteen, so far as it relates to the counties of Baldwin, Clarke, Washington, Wayne, Greene, Jackson and Mobile, be and the same is hereby repealed.

ACT of December 22, 1814. (Stat. p. 35.)

218. SECT. I. So much of the fifth section of the said act as prevents an allowance of a writ of error, unless the judge granting the same shall be of opinion from the inspection of the record of the judgment or decree, that there is good cause to reconsider the same, be and the same is hereby repealed.

219. SECT. II. The security required by the fifth section of the act entitled, "An act to regulate the several courts in this territory and to create a supreme court of errors and appeals" may be given in the clerk's office, and be approved by the clerk of the court to whom said writ of error is directed, and no writ of error shall operate as a supersedias until security be given with such clerk, or given according to the provisions of the act above recited, and the said clerk shall send an attested copy of the bond to the said supreme court with the transcript of the record.

SECT III. When any judgment shall be affirmed on a writ of error in the said supreme court of errors and appeals, the said court shall render judgment against the principal and security in said bond.

ACT of December 27, 1814. (Stat. p. 38.)

220. SECT. I.* The superior courts of law and equity in the counties of Lawrence, Marion, and Hancock, shall be held in each of the said counties twice in every year at the places appointed by law, for holding the same, and the terms of the said several courts shall commence as follows to wit: in the county of Lawrence on the first Monday of March and September; in the county of Marion on the second Monday of March and September; and in the county of Hancock on the third Monday of March and September, which said several courts

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*Time of holding courts, altered—*vide post.*

may be held for the space of six judicial days if business shall so long continue.

Sect. II. All process now issued, and not returned to the superior court of Marion county against any defendant or defendants who may reside within the county of Lawrence, shall be executed and returned in the same manner as though this act had not passed, and the superior court of Marion county at the first term thereof after the passage of this act shall cause all suits or causes whatever pending in the said court, and undetermined with all original papers thereunto belonging, where the defendant or defendants may reside in the said county of Lawrence to be transferred to the superior courts of the said county of Lawrence, and such court shall try and determine the cause or causes so transferred.

221. Sect. III. The county courts of the counties of Lawrence and Marion shall be held twice in every year at the places appointed by law for holding the superior courts of said counties, and the terms thereof shall commence as follows, to wit: in the county of Lawrence on the first Mondays of May and October; in the county of Marion on the second Mondays of May and October; any law to the contrary notwithstanding.

ACT of November 29, 1815. (Stat. p. 11.)

222. Sect. I. Hereafter it shall be lawful for clerks of courts of record and their deputies to take the oath of office, and enter into bond and security, conditioned according to law, before any judge of the superior courts of this territory, or justice of the quorum of the proper county; which said bonds shall be disposed of according to law, by the person taking the same; any provision in any law to the contrary notwithstanding.

ACT of December 9, 1815. (Stat. p. 24.)

223. Sect. II. There shall be holden in and for the county of Monroe, twice in every year, a superior court of law and equity, a county court and an intermediate court for county purposes, at the times following to wit: The superior courts on the second Mondays in March and September—the county courts on the second Mondays in February and August; and the intermediate courts on the second Mondays in May and November; the said superior courts to be holden six judicial days, if business shall so long continue, and no longer; and the said county and intermediate courts, so long as busines shall require.

224. Sect. III. Hereafter, the superior courts of Washington county shall be holden on the third Mondays in March and September, in each and every year, and continue six judicial days, if business shall so long continue, and no longer; and all writs, precepts and pro-

cess now issued returnable to the superior court of said county, shall be returnable at the time appointed by this act for said court to be holden, and all suits pending in said court are hereby declared to be in the same situation at the first term of the court established by this act, that they would have been in at the first term, had the time not been altered; and all jurors and witnesses shall be liable to the same penalties for non-attendance at the court hereby established, that they would have been liable to had no alteration of the time taken place.

225. Sect. IV. Hereafter, the county courts for the county of Mobile shall be holden on the second Mondays in April and October, in every year; any former law, to the contrary, notwithstanding; and continue six judicial days, if business require.

ACT of December 9, 1815. (Stat. p. 29.)

226. Sect. IV. Courts shall be holden in the county of Pike twice in each year, at the place provided by this act for that purpose, at the times and in the manner, following, to wit: The superior courts of law and equity on the second Mondays in March and September; the county courts on the fourth Mondays in June and December; and the intermediate courts for county purposes on the fourth Mondays in March and September. The said superior courts to be holden six judicial days at each term, if business shall so long continue, and no longer.

Sect. V. All process now issued, and not returned to the superior court of Marion county, against defendants residing in the county of Pike shall be executed and returned in the same manner as though this act had not passed; and the superior courts of Marion county at the first term after the passage of this act, shall cause all suits or causes whatever depending in said court and undetermined, with all original papers thereunto belonging, where the defendant or defendants reside in the said county of Pike, to be transferred to the superior court of said county, there to be proceeded on, as though the same had originated therein.

227. Sect. VI. The superior courts of law and equity in the counties of Marion and Hancock shall be holden at the several times following to wit: in the county of Marion on the third Mondays in March and September; and in the county of Hancock on the fourth Mondays in March and September; and all writs, processes or other proceedings which may have been issued and not executed and returned to the said courts shall be returned to the said courts respectively, shall be executed and returned to the said courts to be holden at the times herein directed, and the same proceedings shall be had thereon that there would have been, provided the times of holding the said courts had not have been changed, any law to the contrary notwithstanding.

ACT of December 23, 1815. (Stat. p. 58.)

228. Sect. I. In all actions of ejectment, hereafter tried in any of the courts of this territory, if it shall be made appear to the satisfaction of the jury trying such cause, that the defendant has a crop then planted or growing upon the premises in question shall, if they find the defendant guilty of the trespass and ejectment complained of, assess at the same time such rent as shall be reasonable and just for the plaintiff to have and receive for the use of said premises, during such time as shall be in their opinion sufficient to enable the defendant to gather and secure his crop from off said premises; and no writ of *habere facias possessionum* shall issue upon any such verdict until the expiration of the time determined by the jury, if the defendant in such action shall enter into bond at any time during the term of the court before whom such cause is tried, with sufficient security to be approved of by the said court in the penalty of double the amount of the rent assessed by the jury payable to the plaintiff, conditioned for the payment of the rent so assessed, at the expiration of the time fixed by the jury for the defendant to hold possession of the said premises.

Sect. II. All bonds taken in virtue of this act shall be filed in the clerk's office of the proper court, and shall have the force and effect of a judgment; and if the same be not discharged according to the condition thereof, execution shall issue thereon against the principal and his security for the sum therein mentioned as upon other judgments in said court.

ACT of December 27, 1815. (Stat. p. 80.)

229. Sect. I. It shall be the duty of the clerks of the superior courts in this territory to keep a trial docket, and to assign not less than fifteen causes ready for trial each day of the term, commencing on the first day and continuing until the docket be gone through. And it shall not be lawful to take up any cause out of the order in which it shall stand upon the trial docket unless by consent of parties.

230. Sect. II. The bond required by law to be given by the plaintiff in error by the —— section of the act entitled, an act to regulate the several courts of this territory, and to create a supreme court of errors and appeals, passed the twentieth day of January eighteen hundred and fourteen, shall in all cases be on condition that such plaintiff shall prosecute his, her or their appeal to effect, and to pay and satisfy such judgment as shall be rendered on such appeal, and in case of dismission or discontinuance of the cause, the supreme court shall render judgment against the principal and security in the bond.

231. Sect. V. No writ of error shall issue to reverse or set aside any judgment or decree, which may be rendered in any of the courts of this territory, after the expiration of two years from the rendition of such judgment or decree.

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ACT of February 10, 1807. (Dig. p. 250.)

1. SECT. XXI. If any person shall forge any entry of the acknowledgments, certificates, or indorsements, whereby the freehold or inheritance of any man may be charged, he shall be liable to the penalties against forgers of false deeds. And if any person shall perjure himself, in any of the cases herein above mentioned, he shall incur the like penalties, as if the oath or affirmation had been in any court of record.

ACT of February 10, 1807. (Dig. p. 306.)

2. SECT. I. If any person or persons shall commit the crime of wilful murder, such person or persons, on being thereof convicted, shall suffer death.

3. SECT II. Every person liable to be prosecuted for petit treason, or as accessary thereto, shall in future be indicted, proceeded against, and punished, as is directed in other kinds of wilful murder.

SECT. III. *Repealed December* 21, 1812.

4. SECT. IV. If any person or persons, on purpose, and of malice aforethought, shall unlawfully cut or bite off the ear, or ears, or cut out, or disable the tongue, put out an eye while fighting or otherwise, slit the nose or a lip, cut or bite off the nose or lip, or cut off or disable any limb or member of any person whatsoever, shall be deemed guilty of mayhem ; and in every such case, the person or persons so offending, their counsellors, aiders and abetters, shall, on conviction thereof, pay a fine, not exceeding one thousand dollars, at the discretion of the jury trying such offender, and shall stand in the pillory two hours every day, not exceeding three days.

5. SECT. V. Every person who shall assault another with intent to commit murder, rape, or robbery, shall, on conviction thereof, be amerced in such a sum as shall be assessed against him or her by the verdict of a jury, and imprisoned a term not exceeding one year ; and shall also give sufficient security for good behaviour for the term of six months after the expiration of such imprisonment.

6. SECT VI. Every person who shall commit the crime of rape, and be thereof convicted, shall suffer death.

7. SECT. VII. If any person or parsons shall hereafter be guilty of stealing or selling any free person for a slave, knowing the said person so sold to be free, and shall be thereof lawfully convicted, the person or persons so convicted, shall suffer death.

8. SECT. VIII. Every person who shall wilfully and maliciously

burn any dwelling-house, cotton-house, or out house, or building adjoining such dwelling-house, cotton house or store, shall be deemed guilty of arson ; and upon conviction thereof, shall suffer death.

9. **Sect. IX.** Every person who shall burn any out house, barn or stable not adjoining some dwelling-house or store ; or shall burn any hovel, crib, cock, mow or stack of hay, fodder, corn or grain, or shall be accessary to either of the said offences, before the fact, shall, upon conviction thereof, pay the damages that any person may sustain thereby, and shall suffer imprisonment, not exceeding six months.

10. **Sect. X.** Every person who shall commit the crime of robbery, and be thereof convicted, shall suffer death.

11. **Sect. XI.** Every person who shall commit the crime of burglary, and be thereof convicted, shall suffer death.

12. **Sect. XII.** If any person, or persons, shall be accessary before the fact, to any wilful murder, rape, arson, robbery or burglary, he, she or they, so offending, shall, upon conviction thereof, suffer death.

Sect. XIII. If any person or persons, shall be accessary after the fact, to any wilful murder, rape, arson, robbery, or burglary ; he, she, or they, so offending, shall upon conviction thereof, be fined, not exceeding five hundred dollars, at the discretion of the jury, and shall receive thirty-nine lashes on the bare back.

13. **Sect. XIV.** Any person convicted of larceny, to the value of twenty dollars, or upwards ; or as accessary thereto ; shall restore the goods or chattels so stolen, to the rightful owner or owners thereof ; or shall pay to him, her, or them, the value of such goods or chattels, as shall not be restored : and moreover, shall receive thirty-nine lashes, upon his, or her bare back : and shall stand in the pillory, at the discretion of the court ; so as not to exceed two hours in each day, for three days.

Sect. XV. If any person or persons, shall feloniously take, steal, and carry away, any goods or chattels, under the value of twenty dollars, or shall be the accessary thereto, before the fact ; he, she, or they, being thereof legally convicted, shall be deemed guilty of petit larceny ; and shall restore the goods and chattels, so stolen, to the owner or owners thereof ; or pay the value thereof to such owner or owners ; and shall receive any number of lashes, not exceeding thirty-nine.

14. **Sect. XVI.** Robbery, or simple larceny of obligations or bonds ; bills obligatory, or bills of exchange ; promissory notes for the payment of money, or notes for the payment of any specific property ; lottery tickets, paper bills of credit, cotton receipts, certificates granted

by or under the authority of this territory, or of the United States, or of any of them; shall be punished in the same manner, both as to the principal and accessary, as robbery or simple larceny of goods and chattels.

15. Sect. XVII. If any person or persons, shall receive or buy any goods or chattels, that shall be feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen; or shall receive, harbor, or conceal any felons or thieves, knowing them to be so: he, she, or they, being of either of the said offences legally convicted, shall restore the goods so received, or pay double the value thereof; and shall stand in the pillory two hours.

16. Sect. XVIII. If any person or persons shall steal any negro or mulatto slave whatsoever, out of or from the possession of the owner or overseer of such slave; the person or persons so offending, shall be and are hereby declared to be felons, and shall suffer death.

17. Sect. XIX. If any person do feloniously take or steal any horse, mare or gelding, foal or filly, ass or mule; the person so offending shall restore the property so stolen or pay the value thereof, which shall be adjudged by the jury trying such offender, to the owner or owners thereof, and be fined at the discretion of the jury in a sum not exceeding five hundred dollars, and shall moreover receive thirty-nine lashes on his or her bare back, well laid on, and be branded on the face, or in the right hand as the court shall think fit with the letter T and be imprisoned for a term not exceeding twelve months.

Sect. XX. And forasmuch as felons are much encouraged to steal horses because a great number of persons make a trade to receive and buy of such felons, the horses by them feloniously taken and also do make it their business to conceal such offenders after the said fact, knowing such felonies to be by them committed: *Be it further enacted*, That if any person or persons shall receive, or buy any horse, ass or mule, that shall have been feloniously taken or stolen from any other person, knowing the same to have been stolen, or shall harbor or conceal any horse or mule stealer, knowing him to have so offended; such person shall be deemed and taken as an accessary to such felony; and being of either of the said offences legally convicted by the testimony of one or more credible witness or witnesses, shall incur and suffer the punishment of fine, imprisonment, whipping and branding, as prescribed in the last section.

Sect. XXI. If any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence; it shall and may be lawful to prosecute every such person or persons buying and receiving any such animal as aforesaid stolen by any such principal felon knowing the same to have been stolen; and on conviction thereof such offender, shall be punished in the same manner as if the said principal felon had been previously tried and convicted.

18. Sect. XXII. Every person, who shall be convicted of stealing any neat cattle, hog, sheep or goat: shall, for every such animal so stolen, forfeit and pay to the owner the value thereof: and also a fine of twenty dollars, to any person suing for the same; to be recovered in any court in this territory, having cognizance thereof: and moreover, the offender shall receive on his bare back, twenty-five lashes, well laid on, for the first offence; and for every succeeding offence, he shall receive on his bare back, thirty-nine lashes well laid on; and stand in the pillory two hours.

19. Sect. XXIII. Every person, who shall be convicted of altering or defacing the mark, or brand of any horse, mare, colt mule, ass, neat cattle, hog, sheep or goat, not being his own property, and without the consent of the owner, shall, for every such animal, whose brand or mark shall have been so altered or defaced, forfeit and pay the same fines; to be recovered and appropriated in the same manner; and suffer the same penalties as are prescribed in the preceding section.

Sect. XXIV. If any person shall be convicted of having marked or branded, with his mark or brand, any unbranded or unmarked horse, mare, colt, mule, ass, cattle, hogs, sheep or goat; not being his own property, and without consent of the owner: the person so offending, shall forfeit and pay the sum of twenty dollars, for every animal so branded and marked; to be recovered and applied as aforesaid: *Provided nevertheless*, That if any person being in doubt, as to the right of property, shall call in two of the neighbours next adjoining the range, where such stock shall run; and in their presence, and with their approbation, mark and brand, or mark or brand any such stock as aforesaid, he shall not be liable to any of the penalties contained in this section.

20. Sect. XXV. If any person shall throw down or open any bars or gates, fence or fences belonging to, or inclosing lands not his own, or shall dig up or carry away any roots, fruit or plants; or shall cut down or carry away any cotton, corn, oats or rye, standing, lying or being on any land not his own, or shall take or carry away from any landing place, whereof he is not a proprietor or owner, any boat, water craft, or goods or wares whatever, wherein he hath no interest, without the leave of some person who has interest therein; or shall wilfully injure any building not his own, he shall for each and every such offence, forfeit and pay to this territory a fine not less than two, nor more than twelve dollars; to be recovered upon complaint, before any justice of the peace, in the county where the offence was committed; and shall be liable to answer in damages to the party injured.

If any person shall wilfully destroy, break, or pull down, injure or deface any public building, monument, instrument of writing, or other instrument or machine, erected or set up by lawful authority, without being duly empowered so to do, the person so offending shall forfeit and pay for each offence, a fine not less than twelve dollars, nor more than three hundred; to the use of this territory; to be recovered by information or indictment, in any court of record, having cognizance of the same; and be further liable to answer in damages as aforesaid. And if any person, on being sentenced to pay any of the fines aforesaid, shall be unable to pay the same, the court passing sentence, may order such person to be publicly whipped, not exceeding thirty-nine stripes, or be imprisoned not exceeding six months, and to find sureties for his good behaviour for the term of one year.

When any of the trespasses before named, shall have been committed upon any buildings, or other property of a particular county, it shall be the duty of the attorney general to institute an action, and prosecute for the damages the county may have thereby sustained.

And it is provided, that nothing in this section shall be construed to prevent the moving of any incumbrances which may be in the highway, under the order and direction of any person who may be legally authorised to superintend the same; or to prevent any prosecution for a theft, where a theft is committed.

21. Sect. XXVI. If any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting any gold or silver coin, which now is, or hereafter may be passing or in circulation in this territory, or shall falsely utter, pay, or offer or tender in payment, any such forged or counterfeited coin, knowing the same to be forged or counterfeited, every person so offending and being thereof convicted, shall suffer death.

Sect. XXVII. *Repealed December* 21, 1812.

22. Sect. XXVIII. If any person or persons shall feloniously steal, take away, alter, falsify or otherwise avoid any record, writ, process or other proceedings, in any of the courts of this territory, by means whereof any judgment shall be reversed, made void, or not take effect, or if any person shall acknowledge, or procure to be acknowledged, in any of the courts aforesaid, any recognizance, bail or judgment, in the name or names of any other person or persons, not privy or consenting to the same, every such person or persons, on conviction thereof, shall pay a fine not exceeding five hundred dollars, at the discretion of the jury; and may also at the discretion of the court, receive thirty-nine lashes: *Provided nevertheless*, That this act shall not extend to the acknowledgment of any judgment or judgments, by any attorney or attornies, duly admitted for any person or persons, against whom any judgment or judgments shall be had or given.

Sect. XXIX. Every person who shall deface, alter, falsify or embezzle, any record, enrolment, or matter, or instrument recorded, or registry thereof, with intent to defraud, shall, upon conviction thereof, pay a fine not exceeding one thousand dollars, at the discretion of the jury; and be imprisoned a term, not exceeding two years.

23. Sect. XXX. If any person or persons shall wilfully and corruptly commit perjury, or shall by any means procure any person to commit corrupt and wilful perjury, on his or her oath or affirmation, in any suit, controversy, matter or cause, depending in any of the courts of this territory, or in any deposition or affidavit taken, or made pursuant to the laws of this territory; every person so offending, and being thereof convicted, shall pay a fine not exceeding three hundred dollars, at the discretion of the jury, and stand in the pillory two hours, and shall have thirty-nine lashes on the bare back, and be thereafter rendered incapable of giving testimony in any of the courts of this territory, until such time as the judgment against such offender be reversed.

Sect. XXXI. In all prosecutions against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath or affirmation was taken; averring such court, person or persons, to have competent authority to administer the same; together with a proper averment or averments, to falsify the matter or matters, wherein the perjury or perjuries is, or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, other than as aforesaid; and without setting forth the commission, or authority of the court, or the commission or authority of the person or persons, before whom the perjury was committed.

Sect. XXXII. In all prosecutions for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury; it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment or declaration, or any part of the record or proceeding, either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed.

24. Sect. XXXIII. If any person having knowledge of the actual commission of the crimes of wilful murder, rape, arson, robbery, burglary or larceny, shall conceal, and not as soon as may be disclose and make known the same to some of the judges, or other person or persons, in civil authority within this territory, on conviction thereof, such person or persons shall be adjudged guilty of misprison of felony, and shall pay a fine not exceeding three hundred dollars, at the discretion of the jury; and may also at the discretion of the court, receive any number of lashes not exceeding thirty-nine.

25. Sect. XXXIV. If any person or persons shall knowingly, or wilfully obstruct, resist, or oppose any officer of this territory, in serving or attempting to serve, or execute any mesne process, or warrant,

or any rule or order, of any of the courts of this territory, or any other legal or judicial writ, or process whatsoever, or shall assault, beat or wound any officer or other person duly authorised, in serving or executing any writ, rule, order, process, or warrant aforesaid; every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding six months, and fined not exceeding two hundred dollars, at the discretion of the jury trying such offender.

26. Sect. XXXV. If any person or persons shall, by force, set at liberty, or rescue any person or persons who shall be found guilty of any capital offence, or rescue any person convicted of any capital crime, going to execution, or during execution, every person so offending and being convicted thereof, shall suffer death. And if any person or persons shall, by force, set at liberty, or rescue any person or persons, who, beforce conviction, shall stand committed for any capital offence, or if any person or persons shall, by force, set at liberty or rescue any person committed for, or convicted of any other offence, every person so offending shall, on conviction thereof, be fined not exceeding three hundred dollars, at the discretion of a jury, and be imprisoned not exceeding nine months.

27. Sect XXXVI. If any person or persons shall, directly or indirectly, by any ways or means howsoever, without the knowledge or privity of the keeper, convey any instrument, tool, or other thing whatsoever, to any prisoner, or into any prison, whereby any prisoner might break the prison, or work himself or herself unlawfully out of the same; every person so offending, shall forfeit and pay such fine, as by the direction of the court, shall be imposed, not exceeding one hundred dollars, according to the nature of the cause of the prisoner's commitment; or suffer such corporal punishment, not exceeding forty stripes, as the court shall inflict. And if it shall so happen, that any prisoner shall make his or her escape, by means of any instrument or tool, or other thing, conveyed without the knowledge and privity of the keeper, the person so conveying the same, shall be liable to pay all such sums of money for which the prisoner stood committed, if on civil process; and shall also have inflicted upon him or her, all such punishment to which the escaped prisoner would be liable, if a criminal, and had been convicted of the charge for which he or she had been committed; unless such prisoner would be liable to capital punishment; in which case, the person assisting in such escape, shall be puished by fine, imprisonment, whipping, pillory or sitting on the gallows with a rope about his or her neck, or any one or more of the said punishments, as the court having cognizance thereof shall think proper to inflict.

Sect. XXXVII. If any jailer or prison-keeper, shall voluntarily suffer any prisoner committed unto him, to escape, he shall suffer and undergo the like pains, punishments and penalties as the prisoner so escaping should, or ought by law to have suffered and undergone, for the crime or crimes wherewith he stood charged, if he had been convicted thereof. And if any jailer or prison-keeper shall, through negligence, suffer any prisoner accused of any crime, to escape, he shall pay such fine as the justices of the court, before whom he is convicted, shall in their discretion inflict, according to the nature of the offence for which the escaped prisoner stood committed.

Provided nevertheless, That if any person who may be committed for debt, shall violently escape from prison, without connivance of the sheriff or keeper, and the sheriff, jailer, or prison-keeper, shall, within three months next after such escape, recover the prisoner so escaped, and re-commit him to prison; then the sheriff shall be liable to nothing farther than the costs of such action or actions, as may have been commenced against him for such escape.

28. Sect. XXXVIII. If any person or persons, being married, shall again intermarry with any other person or persons, the former husband or wife being alive, he, she, or they, so offending, shall, on conviction thereof, pay a fine not exceeding five hundred dollars, at the discretion of the jury, and be imprisoned a term not exceeding one year, and receive thirty-nine lashes on his or her bare back.

Provided nevertheless, That this section shall not extend to any person or persons whose husband or wife shall absent him or herself, one from the other, by the space of five years; the one of them not knowing the other to be living within that time; nor to any person or persons who shall be at the time of such marriage divorced by competent authority; or to any person or persons whose former marriage shall have been declared or rendered void by sentence of competent authority, or by settlement made before legal authority; or to any person or persons for, or by reason of any former marriage, had or made within the age of consent.

29. Sect. XXXIX. Whereas, from a false sense of honor, the inhuman, injurious, and detestable practice of duelling, has been too often and unhappily resorted to, as a mode of adjusting or settling differences of small magnitude, between individuals; *And whereas*, This barbarous and savage conduct has of late obtained a great degree of prevalence, to the destruction of the lives of some valuable members of society, and involving the feelings of others, who, from principle and respect for the laws of their country, will not engage in this pernicious practice: *Be it therefore enacted, &c.* That from and after the passing of this act, if any person or persons shall deliver, offer or send any challenge, in writing, verbally, or otherwise, to fight a duel, or shall accept such challenge, or shall fight a duel, and neither of the parties be killed, or shall be the bearer of such challenge, knowing the same to be such, the person or persons so offending, their aiders or abettors, and each of them, shall, on conviction thereof, be fined in the sum of one thousand dollars, and be imprisoned twelve calendar months, and be rendered incapable of holding any office of honor,

profit or trust, under the government of this territory, for and during the term of five years, from the time of such conviction.

SECT. XL. If any person or persons residing or being in this territory, shall promote, concert, plan, or in any manner encourage the fighting of a duel, between persons residing or being in this territory, whether the same duel be fought or not within this territory or elsewhere, such person or persons shall be subject to the pains and penalties prescribed in the preceding section of this act.

SECT. XLI. If any person residing or being in this territory, do hereafter actually fight a duel, and either of the combatants be killed, the survivor, with such other person or persons who may have aided or assisted in the said duel, shall be deemed guilty of wilful murder, and on conviction thereof, shall suffer death.

SECT. XLII. And whereas persons guilty of the crimes specified in the foregoing section, escape punishment through want of sufficient testimony, occasioned by the secret combination of the parties concerned: *Be it therefore further enacted*, That when other evidence cannot be had of offences committed against this act, it shall and may be lawful for any justice of the peace, upon his own knowledge, or strong suspicion of such offences, or on credible information thereof, to him given, on oath, or otherwise, to issue a summons, or at his discretion, a warrant, in the nature of a capias, against any person or persons, suspected to be concerned in such offences; which summons or warrant shall be returnable before one or more justices of the peace; who are hereby empowered, if necessary, to issue interrogatories, in the premises, to such person or persons, and to compel them to answer the same, fully, upon oath; and in case of their refusal, to cause them to be confined until they shall comply: *Provided*, That the person or persons so answering, fully, and satisfactorily, shall be wholly and entirely released and discharged from all manner of punishment, for such offence or offences as he or they may be implicated in, by his or their answers, as aforesaid. And the justice before whom such testimony is delivered, shall take recognizance or recognizances of such person or persons, binding him or them to appear at the succeeding superior court, for the district or county in which the offender or offenders shall reside, as in other cases.

XLIII. Each and every justice of the peace, and attorney-general, in this territory, is hereby enjoined to carry this act into strict execution, and prosecute all offenders within the meaning thereof. And if any justice of the peace or attorney-general, having knowledge or information of any offence committed against this act, neglect to perform the several duties required of them respectively, such neglect of duty is hereby declared to be a misdemeanor; and for which such justice or attorney-general shall be removed from office; and be rendered incapable of holding any office of honour, trust or profit under the government of this territory for and during the term of two years thereafter.

30. Sect. XLIV. All fines and forfeitures, which shall be incurred under this act, shall be collected by the sheriff of the particular county, where such offender or offenders reside; and paid by him, into the territorial treasury.

31. Sect. XLV. Every other felony, misdemeanor, or offence whatsoever, not provided for by this or some other act of the general assembly, shall be punished as heretofore, by the common law.

32. Sect. XLVI. If any person shall be prosecuted by information, or indictment, for the writing or publishing any libel, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence, in his defence, the truth of the matter contained in the publication, charged as a libel; and the jury who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases.

33. Sect. XLVII. Any person, who shall be indicted for any capital crime, shall have a copy of the indictment, and a list of the jury, which are to pass on his or her trial, delivered unto him or her at least two entire days before he or she shall be tried for the same: and that every person accused and indicted, shall be allowed and admitted to make his full defence, by counsel, learned in the law. And the court before whom such person shall be tried, or some judge thereof, shall immediately upon his or her request, assign to such person, such counsel, not exceeding two, as such person shall desire; to whom such counsel shall have free access at all seasonable hours. And every such person or persons, so accused and indicted, shall be admitted in his, her or their defence, to make any proof he, she or they can produce, by lawful witness or witnesses; and shall have the like process to compel his, her or their witnesses to appear on his, her or their trial, as is usually granted to compel witnesses to appear on the prosecution against him, her or them.

34. Sect. XLVIII. No person indicted for a capital offence, shall be allowed to challenge, peremptorily, above the number of twenty persons of the jury, and if any person shall desire to challenge above the number aforesaid, the same shall be received for lawful cause shewn only. And if any person on his or her arraignment, for any capital or inferior offence, shall stand mute, or will not answer to the indictment, the plea of *not guilty*, shall be entered for him or her, on the record; and the court shall in either of the said cases, proceed to trial of the person standing mute, as if he or she had pleaded not guilty: and for trial, put him or herself upon the country, and render judgment accordingly.

35. Sect. XLIX. No person or persons shall be prosecuted, tried, or punished for any offence, wilful murder, arson, forgery, counterfeiting, and larceny excepted; unless the indictment, presentment or

information, for the same, be found or exhibited within one year, next after the offence shall be done or committed. Nor shall any person be prosecuted for any fine or forfeiture under a penal statute, unless the prosecution for the same shall be instituted within twelve months from the time of incurring the fine, or forfeiture aforesaid : *Provided*, That nothing herein contained, shall extend to any person or persons absconding or fleeing from justice.

36. Sect. L. The manner of inflicting the punishment of death, shall be by hanging the person convicted, by the neck, until dead.

37. Sect. LI. The lands, tenements, goods and chattels of any person or persons, convicted of any crime or misdemeanor, shall be liable and subject, in preference to all other demands whatever, (except dower and jointure) in the first place, to the discharge of the expenses incurred by the territory or county, in the prosecution and conviction of such offender : and in the next place, to what restitution or reparation may be adjudged to the injured party ; and if the estate of the person or persons, shall be incompetent to the said purposes ; then in that case, after deducting the expences of prosecution and conviction, as aforesaid, the surplus, if any, shall go towards making reparation to the party injured,

38 Sect. LII. If the territory shall fail in the prosecution of any inferior offence, the court may at their discretion, and on motion of the attorney-general, if the prosecution appear to be frivolous or malicious, order the prosecutor to pay costs.

39. Sect. LIII. In all prosecutions for offences of either a capital or inferior nature, no person shall on conviction be fined in a greater sum than shall be assessed by the verdict of a jury ; and in all cases, where the defendant or defendants to any indictment whatsoever shall plead guilty, the court before whom the prosecution is depending shall forthwith impannel a jury to assess the fine which shall be inflicted on such defendant or defendants,

40. Sect. LIV. All recognizances hereafter taken for any breach of the peace, for the prosecution of offenders against the laws, or in any case, whatsoever, where a recognizance may be necessary, shall be made payable to the governor, for the time being, and his successors in office.

41 Sect. LV. Sentence of death shall in no case be pronounced against any person or persons convicted of either of the crimes herein before mentioned, unless the punishment prescribed for the commission of such crimes is declared to be death by this act ; and all laws, customs or usages relating to, or in any manner respecting the benefit of clergy, are hereby abrogated and made null to all intents and purposes.

42. Sect. LVI. All fines and forfeitures which may be recovered by virtue of this act, shall be collected and paid by the sheriff of the county where the offender is tried, into the territorial treasury, and accounted for in the same manner that public taxes are or may be accounted for; and whenever the court before whom any offender or offenders may be tried and fined by the verdict of a jury, shall be of opinion that such offender, or offenders, is, or are unable to pay the fine so inflicted, and that his or her, or their imprisonment will operate to increase the public expenditure, the said court are hereby authorised and required to discharge him, her or them from custody.

43. Sect. LVII. The justices of the quorum of every county or corporation in this territory, shall be justices of oyer and terminer for trying slaves charged with treason, felony or other crimes or misdemeanors, which trials shall be by three of the quorum aforesaid, who shall call to their assistance to preside in such trial two justices of the peace of the county where such offence may be committed, without juries, upon legal evidence, at such times as the sheriffs or other officers shall appoint, not being less than five nor more than ten days after the offenders shall have been committed to jail; no slave shall be condemned in any such case, unless all of the justices sitting upon his or her trial, shall agree in opinion that the prisoner is guilty, after allowing him or her counsel in his or her defence, whose fee amounting to ten dollars, shall be paid by the owner of the slave.

Provided always, That when judgment of death shall be passed upon any such offender, there shall be twenty days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection or rebellion.

Sect. LVIII. No person having interest in a slave, shall sit upon the trial of such slave.

Sect. LIX. And for a declaration of what shall be deemed legal evidenc, in such cases, *Be it further enacted* That the court may take for evidence the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes or mulattoes bond or free, with pregnant circumstances, as to them shall seem convincing.

44. Sect. LX. When any negro or mulatto whsoever shall be convicted of any offence, not punishable with death by this act, judgment of death shall not be given against him or her upon such conviction, but he or she shall be burnt in the hand by the sheriff in open court, or suffer such other and corporal punishment as the court shall think fit to inflict, except where he or she once had the benefit of this act, and in those cases such negro or mulatto shall suffer death.

45. Sect. LXI. When any negro or mulatto shall be found, upon the proof made to any county or corporation of this territory, to have

given a false testimony, every such offender shall, without further trial, be ordered by said court to have one ear nailed to the pillory, and there stand for the space of one hour ; and then the said ear to be cut off ; and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour ; and moreover, to receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post, or such other punishment as the court shall think proper, not extending to life or limb : and at every such trial of slaves for capital offence, the person first named in the commission, then sitting, shall, before the examination of any negro or mulatto, charge such evidence to declare the truth, which charge shall be the words following, to wit :—" You are brought hither as a witness, and by the direction of the law I am to tell you, before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth ; and if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing have both your ears nailed to the pillory, and cut off, and receive thirty-nine lashes on your bare back, well laid on, at the common whipping-post."

ACT of February 10, 1807. (Dig. p. 330.)

46. Sect. I. All persons shall be bailable, unless for capital offences, where the proof shall be evident or the presumption great, by any justice of the peace, before whom the offender may be brought, before commitment, and by any one of the territorial judges afterwards.

Sect. II. III. IV. V. *Repealed December* 27, 1814.

47. Sect. VI. Whosoever shall apprehend and take one or more persons, guilty of burglary, or of stealing any horse or mule, or of robbing in any high-way or road in this territory, and shall prosecute him or them till he or they be convicted of any such offence, shall for every such offender so convicted, receive, within one month after such conviction and demand thereof made, a warrant on the territorial treasury, for the sum of fifty dollars, which demand shall be accompanied by a certificate to the auditor of public accounts, from the court before whom such felon or felons shall be convicted. And in case any dispute should arise between the persons so apprehending any of the said thieves or robbers, touching their right to the said reward ; then such court shall by their said certificate, direct and appoint the said reward to be paid in such shares and proportions as to them shall seem just and reasonable.

48. Sect. VII. The person or persons so apprehending any offender, shall be competent to give testimony on the trial of such offender.

49. Sect. VIII. Where any person shall be feloniously stricken or poisoned in one county, and shall die of the same stroke or poisoning in another county, that then an indictment thereof found by jurors

of the county or district where the death shall happen, whether it be found before the coroner or justice upon the sight of such dead body, or before any court having authority to enquire of such offences, shall be as good and effectual in law, as if the stroke or poisoning had been committed and done in the same county where the party died, or where such indictment was found.

Sect. IX. Where any person shall be feloniously stricken or poisoned at any place out of this territory, and shall die of the same stroke or poisoning within this territory, or where any person shall be feloniously stricken or poisoned at any place within this territory, and shall die of the same stroke or poisoning at any place out of this territory, an indictment thereof found by the jurors of the county or district in which such death, stroke, or poisoning, shall happen respectively as aforesaid, whether before the coroner or justice upon a view of the dead body, or before any court having authority to enquire of murders, shall be as good and effectual in law, against the principals and accessaries, as if such felonious stroke and death, or poisoning and death, and the offence of such accessaries, had happened in the same county where such indictment shall be found; and the circuit or superior court holden in such county shall and may proceed upon the same in all points, as they might or ought to do in case such stroke, poisoning or death, had happened in the same county where such indictment shall be found.

50. Sect. X. Any person or persons who shall steal or otherwise feloniously take any horse, or other goods and chattels from any person in any place out of this territory, and shall afterwards have the same, or any part of such goods and chattels, in his or their possession within this territory, may be indicted for horse stealing or other larceny, in whatever county he or they may be so found with such horse or other goods and chattels as aforesaid; and any receiver of stolen property, knowing the same to have been stolen, may be indicted in any county in which he shall have such stolen property in his possession, although the same may have been originally taken beyond the limits of this territory.

51. Sect. XI. It shall be lawful for any one justice of the peace, upon complaint made before him upon oath, that there is reason to suspect that stolen goods are knowingly concealed in any dwelling-house, out house, garden, yard, croft or other place or places, to issue a warrant under his hand, commanding every such dwelling-house or place to be searched in the day time; and the person knowingly concealing such stolen goods or any part thereof, or in whose custody the same or any part thereof shall be found, such person being privy thereto, shall be deemed guilty of a misdemeanor, and shall be brought before any justice of the peace for the county or place, and made amenable to answer for the same, by like warrant of any such justice, and on conviction shall be punished by fine and imprisonment or whipping,

as the court shall think fit to inflict, although the principal felon be not before convicted of the said felony, and whether such felon be amenable to justice or not.

52. Sect. XII. *And whereas* it sometimes happens that the buyers and receivers of stolen goods convey away and conceal the principal felons, so that they cannot be convicted of such felony, and thereby such buyers and receivers escape all manner of punishment, which has greatly encouraged the buying and receiving of such stolen goods: *Be it therefore enacted*, That it shall and may be lawful to prosecute and punish every such person and persons, buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal offender cannot be taken or be not convicted of the said felony, which shall exempt the offender from being punished as accessary, if the principal shall be afterwards convicted.

53. Sect. XIII. It shall be the duty of every sheriff and other person having authority or power of keeping a jail, or of prisoners for felony, to certify the names of all such prisoners in his keeping, and of every prisoner to him committed for any criminal offence, at the next court having cognizance thereof, there to be calendered before the judges for the deliverance of the said jail, whereby they may proceed to make deliverance of such prisoners according to law.

54. Sect. XIV. Whenever on any criminal prosecution, it shall appear to the satisfaction of the court, that there can be no reasonable expectation that the family of the prisoner will be brought up in honest courses, it shall be the duty of such court to certify the same to the overseers of the poor for the district in which such family may reside, provided the same be within the limits of the jurisdiction of such court; and the said overseers shall thereupon bind out the children of such person, to honest, respectable and virtuous citizens, for the same periods of time and under the same conditions for their instruction and maintenance, as in other cases of orphans and poor children, and return the indentures to the next county court, and likewise certify to the said superior court their doings therein.

55. Sect. XV. No person accused of any criminal offence, shall be set at liberty and absolutely discharged before his trial on account of any mere irregularity or informality in the warrant of commitment, nor after conviction on account of any legal error or imperfection in his indictment, but the same proceedings shall be had again as though he had never been arraigned; nor shall the words "force and arms," or the words "against the peace," or the words "contrary to the form of the statute," be regarded as necessary in any indictment or information for any trespass or any other offence whatsoever, nor shall the parties indicted have any advantage by writ of error or plea or otherwise, for the want of these or the like words, but such indictments and

informations shall be judged as effectual to all intents and purposes as indictments and informations having the same words in them.

56. **Sect. XVI.** No informer or plaintiff other than the party grieved, shall or may compound or agree with any person or persons that shall offend, or that shall be surmised to offend any penal statute, for an offence committed, or pretended to be committed, but after answer made in court unto the information or suit, in that behalf exhibited or prosecuted; nor after answer but by the order or consent of the court, in which the same information or suit shall be depending, on pain that whosoever shall offend in making composition, or other misdemeanor contrary to the true intent and meaning of this provision, or shall by colour or pretence of process, or without process, upon colour or pretence of any matter of offence against any penal law, make any composition or take any money, reward, or promise of reward, for himself or to the use of any other, without order or consent of the court aforesaid, and shall be thereof convicted, shall stand on the pillory for any time not exceeding six hours, and forever be disabled to pursue, or be plaintiff or informer in any suit, or information, upon any statute popular or penal, and shall also forfeit and pay into the territorial treasury any sum not not exceeding forty dollars.

57. **Sect. XVII.** If any person hereafter, sue with good faith any action popular, and any defendant in the same action plead any manner of recovery by action popular, in bar of the said action, or that he before time barred any plaintiff in any action popular; then the plaintiff in the action taken with good faith, may aver that the said recovery was had by collusion, or that the said plaintiff was barred by collusion; and if such collusion be lawfully found, the plaintiff who shall sue with good faith, shall have recovery according to the nature of the action, and execution upon the same, in like manner and effect, as if no such action aforesaid had been had: *Provided always*, That no plaintiff shall be permitted to aver any collusion in any action popular, where the point of the same action, or else the collusion has been once tried or lawfully found with the plaintiff or against him, by trial of twelve men, and not otherwise.

ACT of February 6, 1807. (Dig. p. 337.)

58. **Sect. I.** When any person or persons, accused of treason, felony, or other crime or misdemeanor, shall be committed to the jail of any county in this territory, and the sheriff shall have cause to suspect such person or persons will attempt to escape, such sheriff is hereby empowered and required to apply to any justice of the quorum of the county where such person or persons may be confined, who shall, on such application, issue his warrant, directed to the said sheriff, for a sufficient guard for securing such prisoner or prisoners, so long as he, she, or they continue in said jail; to be paid by the public, after the rate of fifty cents for each man per day.

Sect. II. *Expired.*

ACT of February 10, 1807. (Dig. p. 339.)

59. SECT. I. If any person shall be committed or detained in vacation time and out of term for any criminal or supposed criminal matter, unless for treason or felony, punishable with death, the species whereof is plainly and fully set forth in the warrant of commitment, it shall be lawful for such person or for any one in his behalf, to complain to one of the territorial judges who may be or reside nearest to the place of his confinement, and to request by a written petition, attested and subscribed by one or more witnesses, that such prisoner may be brought before such judge for the purpose of his examining into the cause of the commitment or detention of such prisoner; and it shall thereupon be the duty of such judge, upon a view of a copy of the warrant of commitment or detainer, or otherwise, upon oath that such copy was denied to be given, by the person in whose custody the prisoner is detained, to issue the WRIT OF LIBERTY, (commonly called a writ of *habeas corpus*) requiring the production of the prisoner, together with the cause of his detention, directed to the person in whose custody the prisoner is detained, and returnable immediately before the said judge at his place of residence, or at such other place as he shall appoint.

60. SECT. II. Whenever the said writ shall, by any person, be served upon the officer, sheriff, jailer, keeper or other person whatsoever, to whom the same shall be directed, by being brought to him, or by being left with any of his under officers or deputies, at the jail or place where the prisoner is detained, he or some of his under officers or deputies, shall, within three days after the service thereof as aforesaid, or at such time as may be expressly directed in the said writ, make return of such writ, and bring, or cause to be brought, the body of the prisoner unto the judge before whom the said writ is made returnable, or in case of his absence, unto any other of the territorial judges, and shall then likewise especially and fully certify the true cause or causes of the commitment and detainer of the said prisoner, and when he was committed. But if the place of the commitment of such prisoner be beyond the distance of twenty miles from the place to which such writ shall be made returnable, and not above one hundred miles, then such writ shall be executed within ten days, and if above the distance of one hundred miles, then within twenty days.— *Provided always*, That such officer or other person shall not be obliged to execute such writ until such prisoner or other person in his behalf shall pay or tender the charges of bringing the said prisoner before such judge, at the rate of twelve and a half cents per mile, and until such prisoner shall give his bond to pay the same for carrying him back if he should be remanded, and that he will not make any escape by the way.

61. SECT. III. When any prisoner as aforesaid, or other person in his behalf, shall personally or by writing, apply to the clerk of the su-

perior court of the county or district in which such prisoner may be confined, and shall pay or tender to him fifty cents for so doing, such clerk shall without delay draw up a petition for and in the name of such prisoner or other person, requesting that he may be brought before the judge to whom the same is addressed, for the purposes herein before expressed, and which shall be subscribed and attested as aforesaid.

62. Sect. IV. The judge before whom any prisoner shall be so brought shall within two days discharge the prisoner from imprisonment, taking his or her recognizance, with one or more surety or sureties, in any sum according to his discretion, having regard to the circumstances of the prisoner and the nature of the offence, for his or her appearance at the next court where the offence may be properly cognizable, and then shall certify the said writ with the return thereof, and the said recognizances into the court where such appearance is to be made, unless it shall appear to the said judge that the party so committed is detained upon legal process, order or warrant, for such matter or offences, for which by the law the prisoner is not bailable; and that the said judge may according to the true intent and meaning of this act, be enabled by investigating the truth of the circumstances of the case, to determine whether according to law the said prisoner ought to be bailed, remanded or discharged; the return may, before or after it is filed, be amended by leave of the said judge, and all suggestions made against it, that thereby material facts may be ascertained.

63. Sect. V. In term time it shall and may be lawful for any prisoner as aforesaid, in manner aforesaid, to move and obtain his or her *writ of liberty* as aforesaid, out of the supreme court, or out of the circuit or superior court of the county or district in which he or she may be imprisoned; whereupon proceedings shall be had as aforesaid; and if any such person shall have wilfully neglected by the space of two terms of such court, after his imprisonment to pray for such writ, it shall not be granted in vacation in pursuance of this act.

64. Sect. VI. If any person shall be committed for treason or felony, and shall not be indicted and tried at or before the next stated term of the court where the offence is properly cognizable, it shall be lawful for the said court, upon the last day of the term, to set at liberty such prisoner upon bail, unless it appear to them upon oath or affirmation that the witnesses for the territory, mentioning their names, could not be produced; and if such prisoner shall not be indicted and tried the second stated term after his or her commitment, unless the delay happen on the application or with the assent of the defendant, he or she shall be discharged from imprisonment.

65. Sect. VII. Nothing in this act shall extend to discharge out of prison any person gulty, or charged with any offence committed in any other part of the United States, and who agreeably to the laws of

congress ought to be delivered up to the executive power of such state, nor any person charged with debt or other action, or with process in any civil cause, or suffering imprisonment under lawful judgment founded on a conviction of some criminal offence.

66. Sect. VIII. And that no person may avoid his trial by obtaining a *writ of liberty* from some judge residing at a distance from the court where he ought to be tried: *Be it fureher enacted,* That no person shall be removed out of the county upon any writ granted in pursuance of this act, within fifteen days next preceding the term of the court where the offence with which he stands charged is properly cognizable, but upon such writ shall be brought before the judge or judges thereof, who shall thereupon, do what to justice shall appertain; and after such court, the person detained may have his *writ of liberty*, according to this act.

67. Sect. IX. If any judge being complained to as aforesaid, shall (upon view of the copy of the warrant of commitment or detainer, or upon oath or affirmation that such copy was refused) refuse or neglect to award any *writ of liberty* by this act required to be granted; or if any officer, sheriff, jailer, keeper, or other person to whom any such writ shall be directed as aforesaid, or any of his under officers or deputies shall refuse or neglect to make the returns aforesaid, or to bring the body of the prisoner, according to the command of the said writ, within the respective times aforesaid, or if upon demand by the prisoner or some person in his or her behalf, shall refuse to deliver, or within six hours after demand, shall not deliver to the prisoner or person so demanding a true copy or copies of the warrant or warrants of commitment and detainer of such prisoner; such judge, officer, sheriff, jailer, keeper, under officer, deputy or other person so offending, shall forfeit to the prisoner or party grieved the sum of five hundred dollars, in the case of the judge; and the sum of three hundred dollars in the case of a sheriff or other person, to be recovered by the said prisoner or party grieved, his or her executors or administrators, against such offender, by action of debt, suit, bill, plaint or information in any court of record.

68. Sect. X. No person who shall be delivered or set at large upon any such writ, shall thereafter at any time, be again committed or imprisoned for the same offence by any person or persons whatsoever, other than by the legal order and process of such court wherein he or she shall be bound by recognizance to appear, or other court having jurisdiction of the cause; and if any other person or persons shall knowingly, contrary to this act, re-commit or imprison, or knowingly procure or cause to be recommitted or imprisoned for the same offence or supposed offence, any person delivered or set at large as aforesaid, or be knowingly aiding or assisting therein; then he or they shall forfeit to the prisoner or party grieved, any pretence of variation in the warrant or warrants of commitment notwithstanding, the sum of

five hundred dollars, to be recovered by the prisoner or party grieved in manner aforesaid.

69. Sect. XI. No person committed to any prison or in custody for any criminal or supposed criminal matter, shall be removed from the said prison or custody, into any other prison, or into the custody of any other person, unless it be by the writ of liberty, or some other legal writ, or where the prisoner is delivered to the constable or other inferior officer to be carried to some common jail, or where any person is sent by any judge or justice, having proper authority, to some common work-house or house of correction, or where the prisoner is removed from one place to another within the same county, in order to his or her trial or discharge in due course of law, or in case of sudden fire or infection or other necessity: and if any person or persons shall after such commitment as aforesaid, make out, sign, countersign and issue, any warrant or warrants for such removal, except as before excepted, then he or they shall forfeit to the prisoner or party grieved two hundred dollars, to be recovered by the prisoner or party grieved in manner aforesaid.

70. Sect. XII. All the provisions herein before made for the awarding and granting of writs of liberty, and proceeding thereon, in case of commitment or detainer for any criminal or supposed criminal matter, shall in like manner extend to all cases were any person, shall be confined or restrained of his or her liberty under any color or pretence whatsoever: and upon oath or affirmation made by such person, or by any other in his or her behalf, of any actual confinement or restraint, and that such confinement or restraint, to the best of the knowledge and belief of the person so applying, is not by virtue of any commitment or detainer for any criminal or supposed criminal matter, a writ of liberty directed to the person or persons so confining or restraining the party as aforesaid, shall be awarded and granted in the same manner and under the same penalties, to be recovered from the same persons, as is herein before directed: and the court or judge before whom the party so confined or restrained shall be brought, shall after the return made proceed in the same manner as is herein before prescribed, to examine into the facts relating to the case, and into the cause of such confinement or restraint, and thereupon either bail, or remand or discharge the party so brought, as to justice shall appertain.

71. Sect. XIII. Whensoever any writ of liberty, shall be served upon the person or persons, confining or restraining the party in the manner herein last mentioned, by being brought to such person or persons, or by being left at the place where the party shall be so confined or restrained; the person or persons so confining or restraining such party, shall make return of such writ, and bring or cause to be brought the body of such party according to the command thereof, within the respective times limited and under the provisions herein

before prescribed; and every such person refusing or neglecting so to make return of such writ, or to bring or cause to be brought the body of the party, according to the command thereof, within the times respectively limited, and under the provisions herein before prescribed, shall be guilty of a contempt of the court, under the authority of which or of the judge thereof, the said writ shall have issued, and shall also forfeit for the first offence, to the party grieved, two hundred dollars, and for the second offence four hundred dollars, to be recovered by him or her, or his or her executors or administrators, against the offender, in manner aforesaid.

72. Sect. XIV. No person shall be sued, impleaded, molested or troubled, for any offence against this act, unless such person be sued or impleaded for the same, within two years after the time wherein the said offence shall have been committed, in case the party grieved shall not be then in prison or confined or restrained as aforesaid; and if the said party shall be then in prison or so confined or restrained, then within two years after the decease of the person imprisoned or so confined or restrained, or his or her delivery out of prison, or from such confinement or restraint.

73. Sect. XV. The defendant or defendants, in or upon any action, suit, bill, plaint or information, for any offence against this act, may plead the general issue, and give the special matter in evidence.

ACT of March 12, 1803. (Dig. p. 347.)

74. Sect. I. No wordly business, or employment, ordinary or servile work, (works of necessity or charity excepted) nor shooting, sporting, hunting, gaming, racing, fiddling or other music for the sake of merriment, nor any kind of playing, sports, pastimes or diversions, shall be done, performed, or practised, by any person or persons within this territory, on the Christian Sabbath, or first day of the week, commonly called Sunday. And that every person, being of the age of fourteen years or upwards, offending in the premises, shall for every such offence forfeit and pay the sum of two dollars. And that no merchant or shop-keeper, or other person, shall keep open store, or dispose of any wares or merchandise, goods or chattels, on the first day of the week, commonly called Sunday; or sell or barter the same upon pain, that every person so offending, shall forfeit and pay the sum of twenty dollars, for every such offence. And if any person offending in any of the premises aforesaid, shall be thereof convicted, before any justice of the peace, for the county wherein the offence shall have been committed; upon the view of the said justice, or confession of the party offending, or proof of any witness or witnesses, upon oath or affirmation, then the said justice before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county where the offence shall have been committed, commanding him to levy the said forfeitures and penalties, by distress,

and sale of the goods and chattels of such offenders. And in case no such distress can be had, then every such offender, shall, by warrant, under the hand and seal of the said justice, be set publicly in the stocks, for any space of time not exceeding four hours.

Sect. II. No waggoner, carter, drayman, drover, butcher, or any of his slaves or servants, shall ply or travel, with his waggon, carts or drays; or shall load or unload any goods, wares, merchandise or produce; or drive cattle, sheep, or swine, in any part of this territory, on the first day of the week, called Sunday, udder the penalty of five dollars; to be levied, recovered and applied, in manner and form, as is directed by this act.

75. Sect. III. No person or persons, upon the first day of the week, called Sunday, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment or decree except in criminal cases, or for a breach of the peace; but that the service of every such writ, process, order, warrant, judgment or decree, shall be void to all intents and purposes whatsoever; and the person or persons so serving or executing the same, shall be as liable to the suit of the party aggrieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree: *Provided*, That if information shall be made by the oaths of two reputable persons, to any justice of the peace or magistrate, of any corporate town, that they have good reason to believe that any person liable to have any such process, warrant, order, judgment or decree, served upon him, intends to withdraw himself, and escape from this territory, under cover and protection of the said first day of the week, commonly called Sunday—in that case it shall be lawful for any officer, duly authorised, being furnished with a certificate of such information, upon oath as aforesaid, under the hand of the justice of the peace or magistrate as aforesaid, to serve or execute such process, warrant, order, judgment or decree, on the said first day of the week, which shall be as valid, and effectually done, to all legal intents and purposes, as if the same had been done on any other day of the week.

76. Sect. IV. If any person shall profanely swear or curse, in the the hearing of any justice, or shall be convicted of profanely cursing or swearing, by the oath of one or more witnesses, or confession of the party, before any justice; every such offender shall forfeit and pay, for every such offence, the sum of fifty cents.

77. Sect. V. If any person convicted of drunkenness, by view of any justice, confession of the party, or oath of one or more witness or witnesses, such person so convicted, shall, for every such offence, forfeit and pay one dollar.

78. Sect. VI. If any person or persons whatsoever shall shew

forth, exhibit, act, represent, or perform, or cause to be shewn forth, acted, represented or performed, any interludes, farces or plays of any kind, or any games, tricks, juggling, slight of hand, or feats of dexterity and agility of body, or any bear-baiting or bull-baiting, or any such like shew or exhibitions whatsoever, on the said first day of the week, every person so offending and thereof convicted, before any justice of the peace of the county where the offence shall have been committed, shall, for every such offence, forfeit and pay the sum of fifteen dollars.

79. Sect. VII. If any person or persons whatsoever, shall wilfully and of purpose, disquiet, interrupt, or disturb any assembly of people, met for religious worship, either by making a noise, or by rude or indecent behaviour, or profane discourse, whether within the place of worship, or out of it so near the same as to disturb the order and solemnity of the meeting. Then every person so offending, and being thereof convicted before any justice of the peace of the said county, shall, for every such offence, forfeit and pay the sum of five dollars.

80. Sect. VIII. In case any person who shall be convicted of any of the offences mentioned in the fourth, fifth, sixth and seventh sections of this act, shall not immediately pay down their respective sums, so forfeited, with the charges of such conviction, then the said justice before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county where the offence shall have been committed, commanding him to levy the said forfeitures or penalties, together with the charges, by distress and sale and sale of the goods and chattels of such offenders. And in case no such distress can be had, then every such offender, shall, by warrnt, under the hand and seal of the said justice, be set publicly in the stocks, for any space of time not exceeding four hours.

81. Sect. IX. Every justice of the peace shall, immediately on information given upon oath or affirmation of any person whatsoever, cause the offender or offenders against this act, to appear before him; and upon such information being proved, as aforesaid, shall convict such offender and offenders, in such a manner, as in, and by this act, is prescribed.

82. Sect. X. It shall be the duty of the justices before whom such conviction shall be had, to take and receive all such forfeitures and fines as may become due by virtue of this act, and pay one half to the informer and the other half to the treasurer of the county wherein the offence was committed, for the use of the poor thereof.

83. Sect. XI. All and every justice and justices of the peace, for the county wherein any such offence shall be committed, may, and they are hereby respectively authorised and required to put this act into execution, against any person or persons, within their respective jurisdictions,

84. SECT. XII. No person shall be prosecuted for any offence against this act, unless the same be proved or prosecuted within ten days after the commission of such offence.

ACT of February 4, 1807. (Dig. p. 352.)

85. SECT. II. If any person or persons shall, at any time after the passing of this act, play at any tavern, inn, store for the retailing spiritous liquors, or in any other public house, or in any street, highway, or in any other open place, at any game or games, with cards or dice, or at any gaming table commonly called A B C or E O, or any gaming table known or distinguished by any other letter or by any figures, or rowley powley table, or at any rouge and noir, or at any faro bank, or at any other gaming table or bank of the same, or the like kind, under any other denomination whatever, or shall bet on the sides or hand of such as do game, any justice of the peace or of the quorum shall, upon information upon oath made before him, fine all and every such person so playing, betting or wagering, in the sum of ten dollars, to be recovered before any such justice with costs, and be applied to the use of the person giving information of the same; and the said justice shall also, on the like information made against any keeper or keepers of such taverns, inns, retail houses or public places, fine each and every of them, in the sum of twenty dollars for every such offence, one half to the informer and the other half to the use of the territory; and when any person shall be fined as aforesaid, and be unable or rufuse to pay the same, agreeably to the requisitions of this act, he or they so failing or refusing, shall be by said justice committed to the common jail of said county, there to remain without bail or mainprize for the space of ten days, and the territory shall stand charged with the costs, if the person or persons so convicted is not in possession of so much property as will be sufficient to satisfy the same; or the said justice may on the same information made as aforesaid before him, bind over to appear at the next circuit court of the county in which such play shall be carried on, all and singular the said persons who shall so play or bet, and shall require him or them to give security for his or her appearance thereat, and on his or their failure to give security, shall commit him or them to the common jail of the said county, and shall also bind over the keeper or keepers of such taverns, inns, stores, public places, to appear at the ensuing circuit court; and every person so playing, upon being convicted thereof upon indictment, shall forfeit a sum not exceeding fifty dollars; and every person keeping such tavern, inn, retail store or public place, shall, upon being convicted thereof upon indictment, forfeit a sum not exceeding one hundred dollars, for each and every such offence.

86. SECT. III. All and every keeper or keepers, or exhibiter or exhibiters of either of the gaming tables commonly called A B C, or E O, or any other table distinguished and known by any other letter or by figure, or billiard table, or rowley powley table, or rouge and

noir, or of a faro bank, or of any other gaming table or bank of the same or like kind, under any other denomination whatever, shall be deemed and rated as vagrants; and moreover it shall and may be lawful for any justice of the peace, or of the quorum, and they are hereby required by warrant under his or their hands, to order any such gaming table to be seized and publicly burnt or destroyed.

87. Sect. IV. The judge or judges of the respective circuit courts of this territory, shall constantly give this act in charge to the grand juries of their courts, at the term such grand juries shall be sworn.

ACT of December 5, 1801. (Dig. p. 355.)

88. Sect I. Every person, whether male or female, who has no apparent means of subsistence; shall apply himself to some honest calling for his support; and if any person shall neglect so to do, or shall be found sauntering about, and endeavoring to maintain himself by gambling or other undue means; it shall and may be lawful for any justice of the peace, of the county wherein such person may be found; on due proof made, to issue his warrant for such offending person; and cause him to be brought before such justice, who is hereby empowered, on conviction, to demand security for his good behaviour. And in case of refusal or neglect, to commit him to the jail of the county, for any term not exceeding ten days, at the expiration of which time, he shall be set at liberty; if nothing criminal appears against him. The said offender paying all charges arising from such imprisonment. And if such person shall be guilty of the like offence, from, and after the space of twenty days, he, or she so offending, shall be deemed a vagrant, and be subject to one month's imprisonment, with all costs accruing thereon; which, if he or she neglect or refuse to pay, he or she may be continued in prison until the next county court; which may proceed to try the said offender; and if found guilty by verdict of a jury of good and lawful men, the said court may proceed to hire the offender for any term, not exceeding six months; to make satisfaction for all costs. But if such person, so offending, be of noted ill fame, so that he or she cannot be hired for the costs, nor give sufficient security for the same, and his, or her good behaviour: in that case, it shall and may be lawful for the said court to cause the offender to receive, not exceeding thirty-nine lashes on his or her bare back; after which, he or she shall be set at liberty; and the costs accruing thereon shall become a county charge. Which punishment may be inflicted as often as the prisoner may be guilty; allowing twenty days between the punishment and the offence.

Sect. II. It shall not be lawful for any house-keeper, within this territory, to harbour or entertain any idle person, of a suspicious character, knowingly, for any longer time than twenty-four hours; under the penalty of ten dollars, for every such offence: to be recovered by warrant, before any justice of the peace of the county where the offence shall be committed.

89. Sect. III. All fines inflicted by this act, shall be paid, the one half to the informer and the other half to the use of the county.

ACT of December 3, 1810. (Stat. p. 18.)

90. Sect. I. No person or persons shall hereafter undertake to raise by lottery, any sum of money or to dispose of by lottery any property, either of his, her or their own, or for any other person or persons whatever, unless he, she or they be authorised by law ; and if any person or persons shall attempt to raise any sum of money, or to dispose of any property by a lottery, except as herein authorised, each person concerned therein shall forfeit the sum of one thousand dollars, to be recovered by information or indictment, in any court, having competent jurisdiction, for the use of the territory : and when any of the judges of the superior courts of law and equity, or any justice of the peace, on his own view of the offence, or by information on the oath of one or more creditable witnesses, shall be satisfied that any person is concerned in any scheme of a lottery contrary to the provisions of this act, he is authorised and required to issue his warrant against any such person or persons, and have him, her or them brought before him and shall compel every person concerned in any lottery contravening this act as aforesaid, to enter into a recognizance, himself in the sum of one thousand dollars, two good and sufficient securities in the sum of five hundred dollars each, to appear at the next superior court of the proper county to answer to such charges as may be exhibited against him, and to be of good behaviour in the mean time ; and in case any person taken up as aforesaid, shall fail to give the security required by this act, he shall be committed to jail.

ACT of December 4, 1810. (Stat. p. 35.)

91. Sect. IV. If any slave or slaves, shall feloniously take, steal and carry away, any goods or chattels, under the value of twenty dollars, he she or they, so offending and being thereof legally convicted, before any justice of the peace, shall be deemed guilty of petit larceny, and the master, or owner or overseer of such slave, shall restore the goods and chattels, so stolen, to the owner or owners thereof or pay the value thereof to such owner or owners ; and also, the said slave shall receive any number of lashes, not exceeding thirty, on his or her bare back, well laid on by order of said justice ; and also the master, owner or overseer of such slave, shall stand charged with the cost of said suit.

ACT of December 16, 1811. (Stat. p. 76.)

92. Sect. I. It shall hereafter be the duty of the attorney-general to mark on all bills of indictment, the name of the prosecutor ; and if the Territory shall fail in the prosecution, it shall be the duty of the court, if the prosecution appear to be frivolous or malicious, to order the prosecutor to pay costs.

93. SECT. II. If any person shall be convicted of having marked or branded with his mark or brand, any unmarked or unbranded horse, mare, colt, mule, ass, bull, cow, bullock, ox, steer, heifer, calf hog, sheep or goat, not being his or her own property, and without consent of the owner, the person so offending shall forfeit and pay the sum of twenty dollars to the owner thereof, for every such animal so branded and marked, to be recovered by action of debt, before any justice of the peace, or in any other court having cognizance thereof: *Provided nevertheless*, That if any person being in doubt as to the right of property, shall call in two of the neighbors next adjoining the range where such stock shall run; and in their presence, and with their approbation, mark and brand, or mark or brand, any such stock as aforesaid, he shall not be liable to the penalties contained in this section.

94. SECT. III. Every person who shall be convicted by indictment, of altering or defacing the mark or brand of any horse, mare, colt, mule, ass, bull, cow, ox, steer, bullock, heifer, calf, hog, sheep or goat, not being his or her property, and without the consent of the owner, shall, for every such animal, whose mark or brand shall have been so altered or defaced, forfeit and pay the value thereof, and also a fine of twenty dollars to the owner.

95. SECT. IV. All acts and parts of acts, coming within the purview and meaning of this act, be, and the same are hereby repealed.

ACT of December 17, 1811 (Stat. p. 81.)

SECT. I. *Repealed December* 21, 1812.

96. SECT. II. It shall be the duty of every judge, justice of the quorum, and justice of the peace, to cause to be burnt, or otherwise destroyed, all tables, of every denomination or description, set up or opened for the purpose of gaming contrary to law.

SECT. III. *Repealed December* 21, 1812.

97. SECT. IV. If any person should be sued for any part that he may have acted in aiding the due execution of this act, or any part thereof, he may plead the general issue, and give this act in evidence, any law to the contrary notwithstanding.

98. SECT. V. Nothing in this act, nor in the act to prevent the evil practice of gaming, to which this is an amendment, shall be construed to extend to persons casually attending or adventuring at any gaming table, but to those only who shall be the real or apparent owners or holders of such gaming table, or other machine or means used in gambling.

ACT of December 21, 1812. (Stat. p. 69.)

SECT. I. *Repealed December* 24, 1814.

99. Sect. II. If any man and woman shall live together in adultery or fornication, it shall be the duty of any justice of the peace of the county in which said persons may live, if within their own knowledge, or upon information to them made on oath that such man and woman do live in adultery or fornication, to cause the said man and woman, or either of them to be brought before him, and he shall bind them or any one of them over, to appear at the next term of the superior court of their county, and the attorney general shall prefer a bill of indictment against such persan or persons, and upon conviction thereof, they shall pay a sum not less than one hundred dollars, to be assessed by a jury, which fines shall be paid into the county treasury of the county where the offence was committed, for county purposes.

100. Sect. III. Any free person who shall be aiding and assisting, or in any wise concerned with any slave or slaves in any actual or meditated rebellion or conspiracy against the laws, government or people of this territory, or shall in any manner advise, plot, or consult with any slave or slaves for the purpose of encouraging, exciting, aiding, or assisting any such insurrection, or rebellion, or intended insurrection or rebellion, such free person so offending and being thereof convicted, shall suffer death.

Sect. IV. *Repealed January* 15, 1814.

101. Sect. V. In all cases not capital, the chief justice of the orphan's court, where any person is imprisoned, may grant a writ of *habeas corpus*, in the same manner and under the like regulations, as judges of the superior court, are by law authorised to do, and such chief justice may discharge, admit to bail or remand to jail, any prisoner brought before him, in the same manner as the judges of the superior court are by law authorised to do.

102. Sect. VI. If any person or persons shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or shall willingly *aid* or assist in the false making, altering, forging or counterfeiting any letters patent, gift, grant, covenant, bond, writing obligatory, note of a bank of any one of the United States, or of any bank established by law in any one of the said states, or bank of any territory of the United States or any bill or order, or acceptance of such bill or order, cotton receipt, receipt for the payment of money, or other article of value, promissory note, bill of exchange, or acceptance thereof, will, indenture, or deed, or any instrument of writing whatever, to secure the payment or delivery of money, or other article of value, or in discharge of any debt or demand, with intention to defraud any person or persons, or any corporation or body politic, or shall utter, put off, or offer or cause to be uttered, put off or offered in payment, exchange, pledge, or for sale, any such false, forged, altered or counterfeited bond, writing obligatory, note of a bank of the United States, or of any bank established by law, in any

one of the said states, or bank of any territory of the United States; or any bill or order, or acceptance of such bill or order, cotton receipt, or receipt for the payment of money, or other article of value, promissory note, bill of exchange, or acceptance thereof, will, indenture or deed, or any instrument of writing, or obligation whatever, to secure the payment or delivery of money, or other article of value, or in discharge of any debt or demand, with intention to defraud any person or persons, corporation or body politic, knowing the same to be false, altered, forged or counterfeited, and shall be thereof convicted, every such person shall suffer death.

103. Sect. VII. If any slave or slaves shall at any time consult, advise or conspire to rebel, or make insurrection against the white inhabitants of this territory, or against the laws and government thereof, or shall plot or conspire the murder of any white person, or shall commit an assault and battery on any white person with an intent to kill, every such slave or slaves so consulting, advising, conspiring or plotting, or committing such assault and battery as aforesaid, with such intent to kill as aforesaid, being convicted thereof, shall suffer death.

104. Sect. VIII. The twenty-seventh section of the act to which this is an amendment, and all other acts and parts of acts, coming within the meaning of this act, be, and the same are hereby repealed.

ACT of December 21, 1812. (Stat. p. 76.)

105. Sect. I. From and after the passing of this act, if any person or persons shall be guilty of keeping or exhibiting any gaming table, commonly called A B C, or E O, or roulette, or rowley powley, or rouge and noir, or any faro bank, or any other gaming table or bank of the same or like kind, or of any other description under any other denomination whatever, or shall be in any manner either directly or indirectly interested or concerned in any of the aforesaid gambling tables, bank, or games, either by furnishing money, or other articles for the purpose of carrying on the same, being interested in the loss or gain of the said table or bank, or employed in any manner in conducting, carrying on, or exhibiting said table or bank, every person so offending, and being convicted thereof in the superior court of law and equity of the proper county, shall pay a fine of not less than five hundred dollars, and not more than two thousand dollars, and shall stand in the pillory three days in succession, one hour each day.

106. Sect. II. If any owner or occupant of any house, out-house or other building, shall knowingly permit or suffer any of the before mentioned tables, banks, or games, to be carried on or exhibited in their said house, out-house, other building, and being convicted thereof, shall pay a fine not less than one hundred dollars, nor more than two thousand dollars : *Provided always*, That if the owner or occupant of said house, out-house, or other building, shall give information to any

judge or justice of the peace of the proper county against any person keeping, exhibiting, concerned or interested in said table, bank or game, within six days after the same comes to his knowledge, he or they so informing shall not be liable to the penalty of this section.

107. Sect. III. If any person shall be guilty of keeping or exhibiting any billiard table for play, not being licensed agreeably to law, or shall be in any way interested or concerned in said table, and being convicted thereof, shall suffer the same punishment as persons convicted of the offences specified in the first section of this act, and all and every owner or occupant of any house, out house or other building, who shall suffer or permit any such billiard table not licensed agreeably to law, to be carried on or exhibited in their said house, out house, or other building, and being convicted thereof, shall suffer the same penalty as persons convicted under the second section of this act:—*Provided*, the said owner or occupant of the said house, out house, or other building, does not give information to a judge or justice of the peace, against the persons keeping, exhibiting, concerned or interested in such table, within six days after it comes to his knowledge, agreeably to the proviso in the said second section contained.

108. Sect. IV. It shall be the duty of all judges, justices of the quorum, justices of the peace, and city magistrates, who shall receive information, or shall have good cause to believe that any person is guilty of any of the offences created by this act, it shall be the duty of said judge or justice of the quorum, justice of the peace or city magistrates to cause the said person or persons so suspected to be arrested and brought before them; and if, on examination, the said judge or justice, or magistrate, shall be of opinion that such person is guilty of the charge laid against him, the said judge shall bind him in recognizance, with good and sufficient security, to appear at the next superior court of law and equity, to answer said charge, and also that he in the mean time will not be guilty of the like offence, with which he stands charged, and in default of his finding such security, to commit the offender to the jail of the proper county.

Sect. V. Whenever any judge or justice may deem it necessary, they are hereby authorised to summon a militia officer, with as many militia men as they may think competent to assist the officer in enforcing the provisions of this act, and every person refusing or failing to aid and assist therein, shall forfeit and pay the sum of twenty dollars, to be recovered before any justice of the peace, for the uses hereafter mentioned.

109. Sect. VI. Hereafter, any person wishing to set up and use a billiard table, for play, within this territory, may do the same by obtaining a license from the clerk of the county court, of the proper county, which licese the clerk is hereby authorised and directed to grant, on the applicant's paying into his hands the sum of one hundred

dollars, and one dollar the clerk's fee, for granting such license; and every billiard table, the owners and keepers thereof, so set up and licensed as aforesaid, shall be exempted from all the pains and penalties imposed by any preceding section of this act, for the space of one year from the date of such license; and every clerk receiving any money for licensing any billiard table as aforesaid, shall pay the same into their respective county treasury, within one month thereafter, under the penalty of two hundred dollars, to be recovered before any court having jurisdiction thereof, upon motion made by the county treasurer, in the same manner as is provided for the recovery of territorial taxes by the auditor of public accounts.

110. Sect. VII. All monies arising from the licensing of billiard tables as aforesaid, within the county of Adams, and all other monies arising under the provisions of this act, within the said county of Adams, shall be and hereby are appropriated to the use of the Natchez hospital, and the county treasurer of said county shall pay the same over to the president and directors of said hospital, or their agent duly authorised to receive the same; and if the said county treasurer shall refuse or fail to pay over any monies which he may receive, as directed by this act, the president and directors shall have the same remedy against such delinquent county treasurer, as the auditor of public accounts now has for the recovery of territorial taxes, and the monies arising from licences on billiard tables, and all fines and forfeitures under this act, in all the counties of this territory, (except the county of Adams) shall be for the use of the county where the same was paid, or where the fine was imposed.

111. Sect. VIII. It shall be the duty of the clerk of the county courts respectively, to furnish the judge of the superior court, on the first day of each term, a list of the persons having obtained license, as aforesaid, within one year preceding said court, and the date of such license; which list, together with this act, shall by the judge be given to the grand jury, in charge, and the grand jury shall present every person who shall have used or set up a billiard table, without having taken out a license as aforesaid; which person or persons so presented, shall be tried on said presentment by a petit jury, and fined in such sum as the jury may assess: *Provided*, The same does not exceed the fines imposed in the first section of this act.

112. Sect. IX. All acts and parts of acts, coming within the purview and meaning of this act, be, and the same are hereby repealed: *Provided*, That nothing in this act contained shall be construed so as to vacate any license heretofore legally granted for keeping a billiard table, but the same shall be as valid as if this act had not passed.

ACT of January 15, 1814. (Stat. p. 9.)

113. Sect. I. Any slave may be tried for any offence not capital, by

any justice of the peace on warrant, and may be sentenced to receive any number of stripes not exceeding one hundred, which sentence shall be executed by the constable: *Provided, however*, that no slave shall be sentenced to receive more than thirty-nine lashes, unless two respectable slave-holders, to be summoned by the justice for the purpose of trying said slave, concur with him in the sentence; and any such justice of the peace shall summon and compel the attendance of all witnesses necessary to establish any fact, for or against such slave, and shall duly examine such witnesses.

Sect. II. Three justices of the Quorum, or two justices of the quorum and one justice of the peace, and in case there be no justices of the quorum convenient, then three justices of the peace shall hold a court, at the court-house of the county, for the trial of any slave charged with a capital offence, and the clerk of the superior court of the county, in which such court may sit, shall attend it, and make a record of its proceedings, and shall issue all necessary *subpœnas* for such slave, as well as for the territory, to compel the attendance of witnesses, and shall charge the usual fees, to be paid by the territory.

Sect. III. In case any justice of the quorum, or peace, when summoned by the sheriff, shall fail to attend, or having attended shall refuse to sit and hold court, such justice shall be returned by the sheriff to the next superior court, and fined at the discretion of such court not exceeding fifty dollars; and the sheriff shall summon another to supply such vacancy, and shall charge his usual fees for summoning witnesses, payable by the territory.

Sect. IV. In case a court be called to try a slave on a charge of a capital nature, and it turn out in evidence that the crime is under that degree, such court may nevertheless go on to punish such slave by stripes or burning, as the case requires.

Sect. V. If any juror duly summoned refuses to attend or to sit, and render a verdict in any case, when a slave is to be tried, such juror may be committed for a contempt during the day, and fined not exceeding twenty dollars.

Sect. VI. If any slave shall maim a free white person, or shall attempt to commit a rape on any free white woman, or shall attempt to commit any other capital crime, or shall be voluntarily accessory, before or after the fact, in any capital offence, or shall be guilty of the manslaughter of any free person, or shall be guilty of burning any dwelling house, out house, barn, or stable, or shall be accessory therto, or shall be guilty of any crime made capital by law, or shall be accessory to any crime herein named, any such slave shall, on conviction, suffer death.

Sect. VII. The fourth section of the act entitled, "an act to amend the act for the punishment of crimes and misdemeanors," and the seventeenth section of the "act respecting slaves," and all other acts and parts of acts, coming within the purview and meaning of this act, be, and the same are hereby repealed.

ACT of December 24, 1814. (Stat. p. 31.)

114. Sect. I. When the executive authority of any of the United States or territories thereof, shall demand any person as a fugitive from justice, of the executive authority of this territory, and shall moreover produce the copy of an indictment found or an affidavit made before a magistrate of any of the United States or territories as aforesaid, charging the person so demanded with having committed treason, felony or other crime, certified as authentic by the governor or chief magistrate of the state or territory from which the person so charged fled :—It shall be the duty of the executive authority of this territory to cause such person so demanded, if found within the territory to be arrested and secured, and notice of the arrest to be given to the executive making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent, when he shall appear, upon the condition that said agent shall pay all legal costs which may accrue in apprehending and imprisoning such fugitive, and the said agent shall be empowered to transport him or her to the state or territory, from which he or she shall have fled : provided, that if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged,

Sect. II. The executive authority of this territory shall have power and authority to demand and receive any person as a fugitive from justice, of the executive authority of any of the United States, or the other territories thereof, to which such person shall have fled, in the same manner and under the same rules and regulations as prescribed by the foregoing section.

ACT of December 24, 1814. (Stat. p. 37.)

115. Sect. I. Hereafter, any person who shall commit the crime of manslaughter, and be thereof convicted, such person shall be fined in a sum not exceeding five hundred dollars, and be imprisoned not exceeding twelve months, and that the infliction of those punishments shall be at the discretion of the jury trying such offender, who may inflict one or both, at their discretion, any law to the contrary notwithstanding.

116. Sect. II. The first section of the above recited act be, and the same is hereby repealed : *Provided*, That all offences that shall be committed previous to the passage of this act, and punishable by the said section, may be proceeded on in the same manner as if this act had not passed.

DIGEST.

Toulmin's Digest adopted . . 1
Other acts added thereto . . 2
Duty of H. Toulmin, Esq. to examine printed copy, &c. 3
Title of Digest 4
Sundry acts not digested remain in force . . . . . . ib.
H. Toulmin to prepare forms, &c. for justices and to have constitution and sundry acts of congress, &c. printed in a book . . 5
No. of copies of Digest 6
Acts of this session printed only in the Digest 7
Toulmin's Digest adopted as printed, with exceptions 8
Digest to be made, its contents, what 9
Person to be appointed . . . ib.
To be furnished weekly with proof sheets . . . . . . ib.
Duty of Public Printer in printing Digest . . . . . . 10.
To give bond, &c. . . . . ib.
Secretary to have the work bound 11
Digester failing to give bond another to be appointed 12
Not liable in case of death . ib.
Compensation to digester . . 13

ACT of February 10, 1807. (Toul. Dig. p. 19.)

1. SECT. I. The Digest, containing the acts hereinafter mentioned, is received and established as the law of the Mississippi territory, viz.

"An act containing so much of former laws as establishes the territorial and county lines;"

"An act regulating elections;"

"An act directing that the next session of the General Assembly shall be held at the town of Washington;"

"An act allowing compensation to the several public officers therein mentioned, and for other purposes;"

"An act to provide for the public printing in this territory;"

"An act creating the offices and defining the duties of the territorial and county treasurers;"

"An act for the appointment of an auditor of public accounts, ascertaining his duties in office, and for other purposes;"

"An act to organize the militia;"

"An act for the appointment of justices of the peace, and the establishment of county courts;"

"An act establishing superior courts, and declaring the powers of the territorial judges;"

"An act to assist poor persons in their suits, and to enable infants to sue by their next friends;"

"An act to erect the town of Natchez into a city, and to incorporate the same;"

"An act supplemental to the act entitled "an act to erect the town of Natchez into a city, and to incorporate the same;"

"An act concerning bail in civil cases;"

"An act directing the method of proceeding in courts of common law and equity against absconding debtors and other absent defendants;"

"An act for the easy and speedy recovery of small debts;"

"An act concerning witnesses;"

"An act concerning juries;"

"An act concerning executions, and for the relief of insolvent debtors;"

"An act establishing the place where the officers therein named shall keep their respective offices;"

"An act regulating the fees of public officers;"

"An act directing the building and establishing of a court house, jail, pillory, whipping post and stocks, in every county;"

"An act for the well regulating of jails;"

"An act respecting sheriffs and coroners;"

"An act prescribing the duties of constables;"

"An act concerning counsel and attornies at law;"

"An act concerning attornies general;"

"An act respecting oaths of office;"

"An act to render promissory notes and cotton receipts negociable, and for other purposes;"

"An act concerning defalcation;"

"An act to prevent suits abating on the death of either party;"

"An act for the limitations of actions, and for avoiding vexatious law suits;"

"An act for the relief of creditors, by making composition with their debtors, in case two thirds in number and value do agree;"

"An act respecting conveyances;"

"An act for the more easy partition of land held by co-partners, joint tenants and tenants in common;"

"An act to prevent the liberation of slaves only in cases hereafter named, and for other purposes;"

"An act to prevent frauds and perjuries;"

"An act concerning forcible entries and detainers;"

"An act to prevent trespasses in certain cases, and declaring what shall be deemed a lawful enclosure;"

"An act concerning wills and testaments, the settlement of intestates estates, and the duties of executors, administrators and guardians;"

"An act for the punishment of crimes and misdemeanors;"

"An act to provide for the more effectual administration of justice;"

"An act for the more effectual preservation of personal liberty;"

"An act for the suppression of vice and immorality;"

"An act to restrain idle and disorderly persons;"

"An act to regulate taverns and restrain tipling houses;"

"An act to prevent unlawful hunting, and for other purposes;"

"An act regulating the solemnization of marriages;"

"An act concerning divorce and alimony;"

"An act concerning aliens;"

"An act to prevent the importation of distempered cattle into this territory;"

"An act to prevent the importaion and spreading the small pox and other contagious diseases;"

"An act respecting slaves;"

"An act to amend and reduce into one the several acts concerning public roads, highways, ferries and bridges, within this territory;"

"An act for improving the navigation of the river named Bayou-Pierre, in Claiborne county;"

"An act concerning strays, for improving the breed of horses, to prevent the stealing of cattle, directing the brands and marks thereof to be recorded;"

"An act concerning the brands and marks of cattle and other stock;"

"An act against usury;"

"An act concerning notaries public;"

"An act to incorporate the Mississippi Society for the acquirement and dissemination of useful knowledge;"

"An act to establish a college in the Mississippi territory;"

"An act for establishing a permanent site for Jefferson college;"

"An act for the settlement and relief of the poor;"

"An act to establish a hospital in the city of Natchez, and for incorporating trustees of the same:"

2. SECT. II. So soon as the acts passed at the present session of the General Assembly shall have received the Governor's assent it shall be the duty of the said Harry Toulmin, Esq. to introduce the same into the Digest before mentioned, and likewise to expunge from the said Digest such acts and parts of acts as are thereby repealed: after which the same shall be delivered to the public printer, who shall take an oath before some justice of the peace, to print the same with care and accuracy, and to use his best endeavors to preserve the copy from injury.

3. SECT. III. It shall be the duty of the said Harry Toulmin, Esq. to compare the printed copy with the original, and to correct, in a proper table to be annexed thereto, whatever errors affecting the sense, he may discover in the printed copy, and to add a proper index and table of contents.

4. SECT. IV. The said Digest and acts of the present session shall, when printed, be entitled "The Statutes of the Mississippi Territory, revised and digested by the authority of the General Assembly:" and that from and after the first day of October next, all the laws of the governor and judges, all the acts of the general assembly of the Mississippi territory, and all statutes of England and Great-Britain, not contained in the said volume of statutes, shall cease to have any force or validity in this territory: *Provided nevertheless*, That nothing herein contained shall be so construed as to affect the following private or local acts, viz:

"An act to alter the name of Pickering county, and for other purposes."

"An act appointing commissioners for the purpose of establishing a permanent seat of justice in the county of Washington, and for other purposes," and the act supplemental thereto.

"An act to divide Jefferson county, and for other purposes therein mentioned:"

"An act for appointing the place of holding the superior courts for Jefferson county, and for other purposes:"

"An act to divide Adams county, and for other purposes therein mentioned:"

"An act to ascertain the boundary line between the counties of Adams and Jefferson:"

"An act to establish a permanent seat of justice in Claiborne county, and for other purposes:"

"An act to establish a permanent seat of justice for the district and county of Adams," and the act to amend the same.

"An act to alter part of the act entitled "An act appointing the place of holding superior courts for Jefferson district, and the county courts for Jefferson county, and for other purposes:"

"An act for the relief of John Randon and others:"

The acts establishing the towns of Wakefield and Greenville:

"An act providing for the erection of a jail in Jefferson county, in Greenville," and the act supplemental thereto.

"An act to provide for the erection of a jail, pillory and stocks, for the county of Wilkinson:"

"An act to emancipate certain slaves therein mentioned:"

And the several acts granting divorces, and also all resolutions of the General Assembly of this territory.

5. SECT. V. The said Harry Toulmin be, and he is hereby requested, to prepare a set of forms, and brief general principles, for the information of the justices of the peace, and likewise to furnish the public printer with copies of the constitution of the United States, with the amendments thereto, and of such ordinances and acts of Congress as relate to the Mississippi territory, to land titles within the same, to crimes and misdemeanors, and the intercourse with the Indian nations, with the articles of agreement and cession between the United States and the state of Georgia; and that the whole be added to the volume of statutes aforesaid.

6. SECT. VI. There shall be printed two hundred copies of the said volume, which shall be delivered to the Governor, who is hereby requested to have the same half-bound, and to cause them to be distributed in the same manner as the acts of the several sessions of the General Assembly are directed to be distributed.

7. SECT. VII. No other copies of the acts of the present session shall be printed at the public expense.

ACT of March 1, 1808. (Stat. p. 31.)

Whereas the indisposition of Harry Toulmin, Esq. has prevented him from comparing and correcting the typographical errors which may, or has been made by the public printer, in printing the digest of the statutes of the Mississippi Territory, according to the act of the general assembly, entitled "an act to adopt the digest of the statutes of the Mississippi Territory, prepared agreeable to a resolution passed the last session of the general assembly, and for other purposes therein mentioned, approved February 10th, 1807."

8. Sect. I. All acts and parts of acts, all bills and parts of bills, and all resolutions of the general assembly, contained in the printed copy of the statutes of the Mississippi Territory, revised and digested by authority of the general assembly, by the honorable Harry Toulmin, one of the United States judges, for the Mississippi Territory, printed by Samuel Terrell, public printer for the year 1807, containing six hundred and seven pages, are hereby declared of full force and validity within this Territory, from the dates of their passage; except the act, entitled "an act concerning aliens," and such acts or parts of acts in the said digest which have since been repealed by the general assembly. And it shall be the duty of the secretary of this territory, to keep one volume of the printed copies of the said digest of the statutes of the Mississippi Territory in his office, to be considered as evidence of the laws of this Territory: *Provided*, That nothing in this act contained, shall be so construed as to render any typographical error in said digist of validity, or to alter the original or true construction of such error into any clause or sentence thereof.

ACT of December 9, 1815. (Stat. p. 35.)

9. Sect. I. There shall be a complete edition or compilation of the acts of the general assembly of this Territory in the form of a Digest, to be made and prepared as hereafter provided; which digest shall comprise the public acts in force at the time of making said digest; the titles of those which have expired or been repealed; and the dates thereof; the constitution of the United States, with the several amendments thereto; the ordinance for the government of the territory of the United States north-west of the river Ohio; the articles of agreement and cession between the United States and the state of Georgia; and such acts of Congress as relate to the Mississippi Territory, together with the Declaration of Independence, (not however to include the land laws) arranged under appropriate heads and following each other in the order the same were respectively passed, with their respective dates noted in the proper places: and the said digest shall be accompanied with marginal notes and a table of contents, and shall be entitled "Statutes of the Mississippi Territory; the Constitution of the United States, with the several amendments thereto; the ordinance for the government of the territory of the United States north-west of

the river Ohio; the articles of agreement and cession between the United States and the state of Georgia; and such acts of congress as relate to the Mississippi Territory, digested by the authority of the general assembly." *Provided,* That no act or section of an act shall be omitted in the digest where any doubt shall exist as to the same having been repealed, but shall be inserted in their proper places with a note explaining the ground upon which such doubt exists.

SECT. II. A person of legal knowledge, skill and integrity, shall be appointed by the joint ballot of the two houses of the general assembly, immediately after the passage of this act, to make and execute said digest, who shall, previously to his entering on the said work, enter into bond and security, to be approved of by the Governor for the time being, payable to him and his successors in office, in the penal sum of three thousand dollars, conditioned for the faithful performance of the duties required by this act; and it shall also be the duty of such person, immediately after the said digest shall be printed as hereinafter directed, to collate and note such errors as may be discovered in said work, and shall prepare a compendious index or epitome of the said digest, alphabetically arranged, and cause the same to be printed in a proper manner by the printer thereof and annexed to said digest; and the said work shall be completed and delivered to the public printer on or before the first day of July next.

SECT. III. In order to enable the person appointed as directed by the second section of this act, to give to the said work the most ample examination, and to prepare the proper index and *errata* for publication, he shall be furnished weekly, if required, with one copy of such part of the same as may be then worked off.

10. SECT. IV. It shall be the duty of the public printer to print twelve hundred copies of said digest, in a neat and workmanlike manner, in close work of the same sized page and type as Graydon's digest of the laws of the United States, to stitch the same together, and deliver the work complete to the Secretary of the said Territory within three months after he shall receive the copy; and there shall be allowed to said printer as a full compensation for the said service, the sum of two dollars per page for the number of pages contained in one copy of said digest, to be paid on the certificate of the secretary, that said work has been deposited by said printer in his office within the time required by this act, stating also the number of pages in one copy; on which certificate the auditor of public accounts shall issue his warrant for the proper sum in favor of said printer or his legal representatives.

SECT. V. The public printer shall within five days after he shall have received notice from the person appointed to prepare the said work, that the same is ready for publication, give bond to the governor of the territory and his successors in office, in the penal sum of five thousand dollars, with good and sufficient security, approved of by the governor, conditioned for the true and faithful performance of the duties required of him by this act; and in case the said public printer should not give such bond within five days, that then and in that case, the governor shall appoint another printer to perform the duties required by this act, who shall give a like bond within five days after his appointment.

11. Sect. VI. It shall be the duty of the secretary of said territory, and he is hereby requested to cause the said digest to be bound in a suitable manner, at the expense of the Territory, and that the said expense be paid on the certificate of the said secretary to the auditor of public accounts, whose duty it shall be to issue his warrant on the territorial treasurer for the amount thereof.

12. Sect. VII. In case the person elected to make said digest shall fail to inter into bond as aforesaid within thirty days after the rising of the present session of the general assembly, or shall die, or remove from the territory, so as to be unable to perform that duty, then the governor of the said territory shall appoint some fit person in his place, who shall give a like bond, within twenty days after his appointment. And in case the person so appointed shall die before the completion of said work, or within the time limited therefor, his bond shall be considered null and void.

113. Sect. VIII. The person who shall prepare and make the said digest shall be allowed the sum of one thousand dollars, to be paid on the certificate of the secretary of this territory, that the said work has been by such person executed within the time required by this act; upon which certificate, the auditor of public accounts shall issue his warrant on the territorial treasurer in favor of such person, for said service.

DISTEMPERED CATTLE.

Penalty for importing distempered cattle 1

ACT of September 21, 1799. (Toul. Dig. p. 377.)

1. Sect. I. Any person importing into this territory, cattle afflicted with a contagious distemper, shall be subject to a fine of ten dollars, for every head so imported: recoverable before a single magistrate, with a right of appeal: one half of which shall be for the use of the territory, and the other half for the use of the person suing for the same.

DISTILLERS.

Owners of distilleries authorised to sell spirits of their own distillation by the quart 1

ACT of January 15, 1814. (Stat. p. 13.)

1. Sect. I. Hereafter all owners of distilleries within the Territory, shall be, and they are hereby authorised to sell spirits of their own distillation, in any quantity not less than a quart.

DIVORCE AND ALIMONY.

Cognizable by courts in equity . 1
Answer of defendant not to be on oath . . . . . . ib.
In what cases to be decreed . 2
Provision for children and alimony of wife 3
Cohabiting after divorce how punishable 4
Proceeding against absent defendants 5
Cognizance of courts herein . . 6
In case of residents and non residents 7
Repealing section . . 8

ACT of March 10, 1803. (Dig. p. 372.)

1. Sect. I. The supreme or superior court of this territory having equity jurisdiction, shall from and after the passing of this act, have jurisdiction of all causes of divorce, by this act directed and allowed: *Provided* the parties be inhabitants of this territory.

Sect. II. The like process and course of practice, and procedure shall be had, and pursued in causes of divorce, as are usually had and pursued in other causes, on the equity side of the said court; except that the answer of defendants shall not be under oath.

2. Sect. III. Divorces from the bond of matrimony, shall be decreed in cases where the parties are within the degrees prohibited by law, in cases where either party is naturally impotent: and in case of adultery in either of the parties; and also for wilful, continual and obstinate desertion, for the term of five years; but the decree, or sentence of divorce, in such cases shall not render illegitimate the issue born under such marriage.

Sect. IV. Divorces from the bond of matrimony shall also be decreed, where either of the parties had another wife or husband, living at the time of such second or other marriage: and that all marriages, where either of the parties shall have a former wife or husband living, at the time of such marriage, shall be invalid from the beginning, and absolutely void.

Sect. V. If it appears to the court, that the adultery complained of, is occasioned by collusion of the parties, and done with intention to procure a divorce, then no divorce shall be decreed.

Sect. VI. Divorce from bed and board, shall be decreed for extreme cruelty, in either of the parties; but if it appears that the cruelty complained of, is occasioned by the collusion of the parties, and done with intent to obtain such divorce, then no divorce shall be decreed.

3. Sect. VII. When a divorce shall be decreed on account of the parties being within the prohibited degrees, or for the cause of adultery, or extreme cruelty, the court shall, and may in every such case, take such order, touching the care and maintenance of the children of that marriage; and also touching the maintenance and alimony of the wife; or any allowance to be made to her; and if any the security to be given for the same, as from the circumstances of the parties, and nature of the case, may be fit, equitable, and just.

4. Sect. VIII. If any person, who shall be divorced on account of their being within the prohibited degrees, shall after such divorce, cohabit together; such persons so offending shall be liable to all the pains and penalties provided by the then existing laws against incest.

Sect. IX. If any person cohabit together after the divorce, for the cause of prior marriage or adultery; such persons so offending, shall be liable to all the pains and penalties provided by the laws, then existing, against adultery.

5. Sect. X. In all cases of divorce, brought, or to be brought into any of the courts of this territory, if the party against whom complaint is made, or shall be made, hath removed or shall, after the cause of complaint hath arisen, remove out of the jurisdiction of the said court; so that the process thereof cannot be served, or if served, the party cannot be compelled to appear, or answer, or plead; it shall and may be lawful for the judges of the said court, on bill filed, and due proof, that the defendant hath removed, as aforesaid, to order a hearing, on the fact charged in the said bill, and thereupon to pass a decree in the same manner, as if the defendant had appeared and were present in court. *Provided nevertheless*, That a copy of the said order for hearing be published in one of the public newspapers of this territory, for the space of three months, at least, before the day appointed for the said hearing.

ACT of December 5, 1809. (Stat. p. 27.)

6. Sect. I. From and after the passing of this act, the supreme or superior court of the Mississippi territory, having equity jurisdiction, shall have cognizance of all cases of divorce, by the before recited act directed and allowed: *Provided*, The parties, or the one applying for a divorce be bona fide a resident of the Mississippi territory, at the time of making such application, and shall have been for at least one year immediately preceding the filing his or her bill, for a divorce.

7. Sect. II. It shall be sufficient that the party making application for a divorce, pursue the usual method directed in the second section of the before recited act, or in case the adverse party be a non-resident of the Mississippi territory, he or she so applying, may at his or her option pursue that mode, or may have a notice issuing from said court in the nature of a summons, served upon the absent defendant, and proof of such notice having been served, being made to the court they shall take the same order thereupon as if notice had been given in the usual way.

8. Sect. III. All acts and parts of acts coming within the purview of this act, be and the same are hereby repealed.

DOWER.

In case of intestacy, or dissatisfaction of widow 1
What portion of chattels . . ib.
Proceeding to obtain it . . 2
Summary proceeding and notice ib.
Widow to retain dwelling house, &c. till assignment 3
Repealing section 4

ACT of December 22, 1812. (Stat. p. 115.)

1. Sect. I. When any person shall die intestate, or shall make his last will and testament, and not therein make any express provision for his wife, by giving and devising unto her such part or parcel of his real and personal estate, as shall be fully satisfactory to her, such widow may signify her dissent thereto, in the superior or county court of the county wherein she resides, at any time within one year after the probate of such will, and then, and in that case she shall be entitled to dower, in the following manner, to wit: one third part of all the lands, tenements and hereditaments of which her husband died seized and possessed of, or had before conveyed, whereof said widow had not relinquished her right of dower, as heretofore provided for by law, which third part shall be and inure to her proper use, benefit and behoof, in and during the term of her natural life; in which said third part shall

be comprehended, the dwelling house in which her husband shall have been accustomed most generally to dwell, next before his death, together with the offices, out-houses, buildings and other improvements thereunto belonging or appertaining: *Provided*, That if it should appear to the judges, or justices of the court to whom application is made, that the whole of the said dwelling-house, out-houses, buildings and other improvements thereunto appertaining cannot be applied to the use of the widow, without manifest injustice to the children or other heirs, then, and in that case, such widow shall be entitled to such part only as the court may deem reasonable and just.

SECT. II. When a husband dies intestate, or shall make his last will and testament, and not make provision therein for his wife as expressed in the first section of this act, she shall be entitled to share in the personal estate in the following manner, to wit: if there be no children, or if there be but one child, in that case, she shall be entitled, out of the residue left after paying the debts of the deceased, to one half, but if there is more than one child, in that case, she shall be entitled to a child's part in fee simple.

2. SECT. III. It shall be lawful, after the passing of this act, for any widow claiming dower, to file her petition in the superior or county court, in the county where her husband shall have usually dwelt, next before his death, setting forth the nature of her claim, and particularly specifying the lands, tenements and hereditaments, of which she claims dower, and praying that her dower may be allotted to her, whereupon the said court shall issue their writ to the sheriff commanding him to summon five discreet freeholders as commissioners, connected with the parties neither by consanguinity or affinity and entirely disinterested, who upon oath, which oath the sheriff is hereby authorised to administer, shall allot, and set off by metes and bounds to the said widow, one third part according to quantity and quality of all the lands, tenements and hereditaments in said county, and shall put her in possession of the same; which possession shall vest in her an estate for her natural life, and where she has claim to dower to lands lying in different counties, she may proceed in the superior or county courts of the county where such land may lay, and make recovery in manner as is hereby directed, and the sheriff and commissioners shall also at the same time, allot and set off to such widow, her portion of the personal estate of which her husband died possessed, and to which, by this law, she shall be entitled; which part or portion shall be and inure to such widow, her heirs, executors, administrators and assigns forever.

SECT. IV. The proceedings upon such petitions for dower shall be in a summary way, and the court shall at their first term when such petition is filed, proceed to hear, and determine as to them shall seem just and right: *Provided*, That the party petitioning for dower shall give ten days previous notice to the executors or administrators, by serving them with a copy of said petition: and where there is no executors, or administrators, or where they do not reside in the county of the residence of such widow, or where the widow shall be the executrix or administratrix, then she shall give the said notice by advertisement, in one of the newspapers published in the territory, nearest to the residence of such widow, to be published four times in succession.

3. Sect. V. It shall be lawful for the widow to retain the full possession of the dwelling house, in which her husband most usually dwelt, next before his death, together with the out-houses, offices or improvements, and plantation thereunto belonging, free from molestation and rent, until she shall have her dower assigned her.

4. Sect. VI. All acts and parts of acts, coming within the meaning of this act, be, and the same are hereby repealed.

ELECTIONS.

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ACT of December 24, 1812. (Stat. p. 125.)

1. Sect. I. The next election for members of the House of Representatives of this Territory, shall be holden on the fourth Monday in May next; and that every future election shall hereafter commence on the same day in every second year.

SECT. II. The sheriff of each county in this territory shall, at least one month previous to the time appointed for holding each and every election for Representatives to the general assembly, by advertisement set up at the door of the court-house and three other public places in his county, notify the inhabitants of his county of the time and place of such election, and what offices are to be filled by such election. The sheriff, on the day of every such election, shall open the poll by twelve o'clock, and continue the same open until the hour of four in the afternoon of the next succeeding day; a suitable ballot-box shall be previously provided by the sheriff, to be paid for by the order of the county court, out of the county treasury.

2. SECT. III. If at any time it shall happen, that there shall be no sheriff in any county, or in case he is unable to attend or does not attend said elections, the coroner of such county, or if there be neither sheriff or coroner, the justice of the peace who is oldest in commission is hereby authorised to perform the duties, which by this act, are enjoined upon the sheriff, and shall be considered as the returning officer of such county.

3. SECT. IV. The court-houses or places of holding the courts of the several counties in this territory, shall respectively be considered as the places of holding the said elections.

4. SECT. V. The following shall be the apportionment of representatives for the several counties in this territory, to the general assembly thereof, viz: the county of Adams six; the county of Wilkinson two; the county of Jefferson two; the county of Claiborne two; the county of Warren one; the county of Franklin one; the county of Amite two; the county of Madison three; the county of Washington one; the county of Baldwin one; the counties of Wayne and Green one; the county of Clarke one; the counties of Mobile and Jackson one; and the counties of Marion and Hancock one.

5. SECT. VI. The citizens of this territory, entitled to vote for representatives of the general assembly, shall, at the times and places of electing representatives, elect one delegate to the congress of the United States, in the same manner, and under the same regulations, as representatives to the general assembly are voted for.

6. SECT. VII. The county courts respectively, at the term next preceding the day of any election, shall appoint three inspectors to superintend the election, and if it shall at any time happen that the county court shall fail to make such appointment, or if any person so appointed shall fail, from any cause whatever, to serve, the sheriff, with the advice of three justices of the peace, or if no justices shall be present, three respectable land holders, shall appoint the said inspectors.

7. SECT. VIII. The said inspectors shall appoint two persons to

act as clerks at every election, whose duty it shall be to take down in writing, on separate lists, the name of every person voting.

8. Sect. IX. The clerks and inspectors of every such election, shall, before they proceed to business, swear, or affirm, (as the case may be) faithfully to perform their duties at such election, justly and agreeably to law, according to the best of their skill and judgment.

9. Sect. X. Every person who by law is entitled to vote for representatives to the general assembly, and who shall choose to vote at any election, shall give to the sheriff, coroner, or justice, whoever may be the returning officer, in presence of the inspectors, a ticket, or scrawl of paper, rolled up, on which shall be written the name or names of the person or persons for whom he intends to vote ; which ticket the said returning officer shall, in the presence of the inspectors, put into the ballot box, and at the same time the clerks of the election shall take down on separate lists the name of every person voting ; and when the election shall be finished, the returning officer and inspectors shall, in the presence of such of the candidates and electors as may choose to attend, open the box and number the ballots ; at the same time, reading aloud the names of the persons who shall oppear on each ticket, which shall be taken down by the clerks in the presence of the said returning officer and inspectors, and if there should appear two tickets rolled up together, or if any ticket shall contain the names of more persons than such elector had a right to vote for, in either of these cases, such ticket shall not be numbered, but shall be adjudged void, and when the tickets shall be numbered, the persons having the greatest number of number of ballots, shall be declared duly elected, unless in the counties herein particularly mentioned ; but when two persons shall have an equal number of votes, the returning officer shall have the casting vote, but shall not vote in any other case whatsoever ; and it shall be the duty of the said returning officer to certify in writing the names of the persons duly elected, which certificate shall be delivered to each representative so elected as aforesaid.

10. Sect. XI. The returning officer within ten days after any election, shall at the request of any person elected to serve in the general assembly, or to congress, or other person in his or their behalf, cause a true copy of the list of voters, and the number of votes for each candidate to be made out, certified and signed by him, and delivered to the person requesting the same ; and if any returning officer shall refuse so to do, or shall hold elections in any other manner than is by this act directed, or shall neglect or refuse to make returns of the elections held by him, he shall forfeit and pay the sum of one thousand dollars, to be recovered by action of debt in any court having jurisdiction thereof ; one half to the use of the county in which such election shall have been held, and the other half to the use of the person who shall sue for the same.

11. Sect. XII. After the election shall be closed, it shall be the duty of the managers of said elections to number the ballots given for each candidate to congress, and cause the same to be taken down by the clerks thereof.

12. Sect. XIII. The sheriffs of the several counties, shall hereafter be the returning officer of his proper county, that is to say: the sheriffs of the counties of Jackson and Hancock, Boldwin, Washington, Greene, Wayne, and the sheriffs of the counties of Mobile, Clarke, Marion, Wilkinson, Adams, Amite, Franklin, Jefferson, Claiborne, Warren, and Madison, shall certify under their hands and seals to the House of Representatives, at the next meeting of the general assembly, after such elections, the names of the persons duly elected.

13. Sect. XIV. The sheriffs of the several counties shall within ten days after such election, certify under his hand and seal, to the governor of the territory, the whole number of votes given in his county, to each candidate for congress, except the sheriff of Madison county, and the counties east of Pearl river, who shall be allowed thirty days; and it shall be the duty of the governor, after receiving the same, to compose the whole number of votes given to each candidate, and to proclaim within ten days thereafter, the person having the greatest number of votes, to be duly elected.

14. Sect. XV. Any person elected to serve in the House of Representatives in this Territory, who shall either directly, or indirectly, give, or agree to give to any elector, money, meat, drink, or other reward, in order to be elected, or for having been elected for any county, shall be expelled.

15. Sect. XVI. Every person who shall be hereafter elected, and returned to serve as a member of the House of Representatives, or appointed to serve as a member of the Legislative council of this Territory, previous to his taking his seat, shall take and subscribe, before the governor, an oath to support the constitution of the United States, and the following oath, or affirmation, viz: "I, A. B. do solemnly swear (or affirm) that I will faithfully execute and perform the duties of a member of the Legislative Council (or House of Representatives for the county of) according to the best of my ability— So help me God."

16. Sect. XVII. If any vacancies shall happen in the House of Representatives, the governor of the territory shall issue writs of election to fill such vacancies, and such elections holden by virtue of any writ from the governor, shall be conducted and regulated in the same manner as is by this act prescribed, as far as the general rules can be applied to the particular case; and in all such cases, the sheriff of the county shall select any three justices of the peace, in case they can be procured, or in case of them, or any of them failing to attend, then

any three respectable freeholders of the county, to act as inspectors thereof.

17. SECT. XVIII. The inspectors of elections shall take care that such elections shall be conducted fairly, and agreeably to law; they shall endeavor to prevent all riotous and disorderly behaviour, and for this purpose shall have authority to commit to prison, for a period not exceeding two days, any person or persons who shall by such riotous or disorderly behaviour disturb the fair and legal course of such election; and they shall read, or cause to be read, aloud, at the court-house door by the returning officer, this act, immediately after the polls are opened.

18. SECT. XIX. The next, and all future sessions of the general assemb y, shall commence on the first Monday in November, in each and every year.

SECT. XX. Hereafter, in addition to the place now established by law for holding elections in Madison county, there shall be, and hereby is appointed one other, to wit: at Horton'sMill, on Flint river; and the county court of said county, shall in like manner appoint inspectors to superintend said separate election, who shall reside on the east side of Flint river, and have the same powers as other inspectors, and shall return a state of the polls, at the said separate election to the sheriff on the last day of election; and the election hereby directed to be holden at Horton's Mill, shall continue to be holden but the first day.

19. SECT. XXI. The counties of Mobile and Jackson shall form one election district, and shall be entitled to one representative in the general assembly, and the county courts of said counties respectively shall appoint inspectors to superintend said election, at the court-houses of their respective counties, and the sheriff of said counties shall attend as in other cases, and it shall be the duty of the sheriff of the county of Jackson, within five days after the adjournment of said election, to transmit a state of the polls to the sheriff of Mobile county, who is hereby declared to be the returning officer for said election district, and the sheriff of Jackson county shall be entitled to vote at said election, in the same manner as other citizens.

20. SECT. XXII. The counties of Greene and Wayne shall compose one election district, and shall be entitled to one representative in the general assembly, and the county courts of said counties respectively shall appoint inspectors to superintend said elections, at the court-house of their respective counties; and the sheriffs of said counties shall attend as in other cases, and it shall be the duty of the sheriff of the county of Greene, within five days after the adjournment of said election, to transmit a state of the polls to the sheriff of Wayne county, who is hereby declared to be the returning officer of this election dis-

trict, and the sheriff of Greene county shall be entitled to vote as other citizens.

21. Sect. XXIII. The counties of Hancock and Marion, shall form one election district, and shall be entitled one representative in the general assembly, and the county courts of said counties respectively shall appoint inspectors to superintend said election, at the court-houses of their respective counties ; and the sheriffs of said counties shall attend as in other cases; and it shall be the duty of the sheriff of the county of Hancock, within five days after the adjournment of said election, to transmit a state of the polls to the sheriff of Marion county, who is hereby declared to be the returning officer for this election district, and the sheriff of Hancock county shall be entitled to vote as other citizens.

22. Sect. XXIV. All acts and parts of acts concerning elections, and all other acts and parts of acts coming within the purview and meaning of this act, be, and the same are hereby repealed.

ACT of January 6, 1814. (Stat. p. 5.)

23. Sect. I. Hereafter it shall be lawful for the elections in Warren county, to be holden at any house on the plantation of William Lewis, near Warrenton, that may be furnished by him for that purpose, and in case of his refusal, at such place as may be fixed on by the county court of said county; any thing in the act, entitled " An act to amend and reduce into one the several acts regulating elections," to the contrary notwithstanding.

ACT of Janury 15, 1814. (Stat. p. 14.)

24. Sect. I. In addition to the place appointed by law for holding elections in Hancock county, there shall be, and is hereby appointed one other, to wit: at any house that may be fixed on by the sheriff of said county at the Bay of Saint Louis, which said separate election shall be holden under the superintendance of three inspectors to be appointed by the county court of the county aforesaid, or by any three justices of the quorum for said county in the recess of the court, and the votes given in at said separate election, with a complete state of the polls in writing, shall be returned to the sheriff of said county within two days after said separate election, who shall transmit said state of the polls to the sheriff of Marion county, together with a list of the votes taken at the court house of Hancock county.

Sect. II. Said separate election to be holden at the Bay of Saint Louis, shall continue to be holden two days, and the inspectors of said separate election shall have the same powers as other inspectors of elections.

ACT of January 22, 1814. (Stat. p. 71.)

25. Sect. I. In addition to the place appointed by law for holding elections in Adams county, there shall be and is hereby appointed one other, to wit: at the City Hall in the city of Natchez, which said separate election shall be holden at the same time and under the superintendance of inspectors appointed in the same manner as is prescribed by the act, entitled "An act to amend and reduce into one the several acts regulating elections," passed the twenty-fourth day of December in the year of our Lord one thousand eight hundred and twelve.

Sect. II. It shall be the duty of said inspectors to make out a fair statement of the votes given at said election, and the number of votes for each candidate and deliver the same within one day after the close of said election to the sheriff of the said county of Adams, who shall be the returning officer for the whole of said county.

Sect. III. It shall be the duty of the sheriff of Adams county to attend said election by himself or deputy and perform all the duties required of him by the before recited act; and in case the said sheriff does not so attend, the coroner or a justice of the peace is authorised to perform the duties required of said sheriff according to the provisions of the aforesaid act.

ACT of December 22, 1814. (Stat. p. 21.)

26. Sect. I. In addition to the place appointed, one other, to wit: at the land office in the town of St. Stephens, or at such other place in said town as may be fixed on by the county court of Washington county, and one other place for holding elections in the county of Jackson, to wit, at the house of Edmund Smith, which said separate elections, shall be holden at the same time and under the superintendance of inspectors appointed in the same manner as is prescribed by the act entitled "An act to amend and reduce into one the several acts regulating elections.

Sect. II. It shall be the duty of said inspectors to make out a fair statement of the votes given at said elections, and the number of votes for each candidate, and deliver the same within one day after the close of said elections to the sheriff of the said county of Washington, and to the sheriff of Jackson, within three days after any election, who shall be the returning officer for the whole of said counties.

Sect. III. It shall be the duty of the said sheriff of Washington county and the sheriff of Jackson county to attend said election by himself or deputy and perform all the duties required of him by the before recited act, and in case the said sheriff does not so attend; the coroner or a justice of the peace is authorised to perform the duties required of said sheriff according to the provisions of the aforesaid act.

Act of December 27, 1814. (Stat. p. 39.)

27. Sect. IV. The counties of Lawrence, Marion and Hancock shall form one election district, and shall be entitled to one representative in the general assembly, and the election for the said representative, and a representative for congress shall be held in the manner pointed out by law at the respective places of holding the courts in each of the said counties, and such other place as is by law appionted, and it shall be the duty of the sheriff of Hancock county within six days after the adjournment of such election to transmit a true state of the polls to the sheriff of Marion county; and the sheriff of the county of Lawrence shall within four days after the adjournment of the election thereof, transmit a true state of the polls to the said sheriff of Marion county who is hereby made the returning officer of the said election district.

ACT of December 27, 1815. (Stat. p. 83.)

28. Sect. I. Whenever the inspectors of any election shall have reason to doubt the qualification of any person tendering a vote, they shall cause the ordinance and laws of congress relative to the qualification of voters in this territory to be read and explained to such applicant, on which they shall administer the following oath or affirmation, to wit: " I, A. B. do solemnly swear (or affirm, as the case may be) that I believe myself duly qualified to vote for a delegate to congress, and members of the house of representatives according to the ordinance and laws of congress for the government of this territory; so help me God." And such applicant shall also state upon oath the particular qualification upon which he believes himself entitled to a vote; and if the qualification be a freehold, he shall also state that he holds the same *bona fide*, and where the same *lies.* Which oath said inspectors are hereby authorised to administer; and any person who shall take said oath, knowing that he legally is not qualified to vote, shall be liable to all the pains and penalties of perjury.

29. Sect. II. Each and every person who shall vote at any election not being legally qualified; or who shall vote at more places than one at any election; or shall vote out of the county, or election district of his permanent residence, shall forfeit and pay the sum of two hundred dollars, to be recovered by action of debt in any court having competent jurisdiction; one moiety thereof to be applied to the use of the proper county and the other to the use of the person suing for the same: Provided that such action shall be commenced within six months after such offence shall have been committed.

ESCHEATS.

Escheated property to go to the territory . . 1
Jefferson College to have all escheats for ten years 2

ACT of December 13, 1811. (Stat. p. 54.)

1. Sect. I. The estate, both real and personal within this territory, of persons who have died intestate, or who may hereafter die intestate, leaving no lawful heir or heirs within the limits of the United States, shall be considered as escheated to the Mississippi territory.

2. Sect. II All property that may escheat under this act, during the term of ten years, shall be vested in the trustees of Jeffeson College, for the use and benefit of said college.

FEES.

In criminal cases, by whom paid . 1
In civil suits clerks may issue execution for fees 2
Of justices of peace for copy of record and taxing costs . . . 3
Of clerks of superior courts . 4
of county courts . ib.
Of sheriffs, coroners, constable, justices of the peace, and quorum ib.
Of the chief justice of the orphan's court . . . . . . ib.
Of notaries public . . . ib.
Of counsellors and attornies at law ib.
Of attorney general . . . ib.
To be taxed and allowed in bills of cost of suits 5
Fee book of clerks and sheriffs . 6
Fees not payable until bills are produced 7
In criminal cases, by whom payable ib.
Penalty for extortion . . 8
Repealing section 9
Of justices of the peace & constables 10
Of jurors, to be paid by counties 11
Clerks and sheriffs, allowances for ex-officio services to be made by county courts 12
Tax of $2 in bills of cost of suits, to pay jurors . . . . ib.
Repealing section . . . 13
Clerks to endorse on all executions items of costs 14
Attorney's fee in supreme court 15
Clerk of supreme court, his fees 16

ACT of February 6, 1807. (Dig. p. 211.)

1. Sect. V. When any person or persons shall be presented, indicted or prosecuted, for any capital or inferior offence, and shall be discharged or convicted, and the court shall not direct the cost to be taxed on the prosecutor, or paid by the person convicted, the clerk and sheriff of said court, shall be entitled to no more fees for the same, but it shall be deemed to be included in their public services.

2. Sect. VIII. It shall and may be lawful, for the clerks of the several courts within this territory, when suits are determined and the fees not paid by the party from whom they are due, to make out executions directed to the sheriff of the county where the party resides, and it shall and may be lawful for the register of the several orphan's courts to make out executions in like manner for the fees that may become due the officers of said courts, by virtue of this act, directed to the sheriff of the proper county, and the said sheriff shall levy the same, by virtue of said execution as in other cases, and to the said execution shall be annexed a copy of the bill of costs of the fees on which such execution shall issue, wrote in words at length, without any abreviation whatever; and all executions issuing without the copy of such bill of costs shall be deemed illegal, and no sheriff shall serve or execute the same.

Sect. IX. *See Courts No.* 63.

ACT of December 18, 1811. (Stat. p. 111.)

3. Sect. I. For furnishing a transcript of a record, a justice of the peace shall be entitled to demand and receive 25 cents.
For taxing costs on any execution, 25 cents.

ACT of December 24, 1812. (Stat. p. 93.)

4. Sect. X. The clerks, sheriffs and other officers, and persons hereinafter named, shall be entitled to demand and receive for the services hereinafter mentioned, the fees thereto respectively annexed, and no more, to be paid, taxed and collected in manner hereinafter directed, that is to say:

TO THE CLERKS OF SUPERIOR COURTS.

	Cents.
For every writ, other than those hereinafter particularly specified with the endorsement - - - - -	50
A copy thereof - - - - - - - -	18 3-4
Entering the sheriffs return, or a copy thereof - -	12 1-2
Copy of a bail bond - - - - -	25
Docketing every cause, to be charged but once -	12 1-2
Entering the appearance of any party, by attorney or personally, to be charged but once - - - - -	12 1-2
For entering special bail in court - - - -	18
For a bail piece, if required - - - - -	12 1-2
For filing declaration, plea or demurer, or other pleadings for each - - - - - - - -	6 1-4
For entering every rule, on the rule docket, at the request of the party, but not otherwise - - - - -	6 1-4
For every order made in court, not otherwise provided for	25
For a copy thereof, if required - - - - -	18

	Cents.
For every trial, swearing jury, and witnesses, and recording a general verdict	62 1-2
For every trial where there is a special verdict, case agreed, or points reserved, and swearing jury and witnesses	75
For entering up judgment or a copy thereof	18
For every scire facias, and recording the return	50
For every execution fifa, or casa, and recording the return	50
For every writ of eliget	30
For recording the return thereof, for every hundred words	15
For a copy of an execution and return	25
For recording the award of arbitrators, viewers, auditors, &c. for every hundred words	15
For every order to witness for attendance, and copy thereof to be charged to the party for whom he is summoned	25
For issuing an attachment thereon for non-payment	18
For taking bonds for injunctions, certiorari supersidias, or writ of error	25
For a copy thereof, if required	20
For filing such bond	10
For recording the acknowledgment of satisfaction of a judgment	12 1-2
For a summons for witness, or witnesses	25
For administering an oath in court not relating to the trial of a suit there depending, and certifying the same	25
For the copy of an account, for every hundred words	12 1-2
For filing every attachment granted by a judge or justice	10
For each summons for garnishee or garnishees, on such attachment	18 1-2
For swearing and taking the examination of a garnishee or garnishees, or any attachment and entering the same on record	25
For every subpœna in chancery, or writ of injunction	50
For filing each bill, answer or other pleadings in chancery	12 1-2
For an order to advertise, or order of survey and copy thereof	37 1-2
For recording a connexion of surveys in a surveyors report, for every survey laid down in such connexion with its references	25
For a copy thereof each	12 1-2
For recording the report of a surveyor for every hundred words	12 1-2
For a copy thereof for every hundred words	12 1-2
For a commission to take depositions	50
For a copy of interrogatories to accompany each commission, for every hundred words	12 1-2
For filing the depositions of each party	12 1-2
For entering a decree in chancery, at large, for every hundred words	20
For every writ *de idiota inquirenda*, or writ of lunacy	25
For recording the return, and inquest thereon, for every hundred words	15

	Cents.
For every writ of *ad quod damnum*, or other writ in the nature thereof	50
For recording the return, and inquest thereon, for every hundred words	15
For every writ of *certiorari*, writ of error, prohibition, *mandamus*, or any other writ in the nature thereof	50
For filing the same with the return	10
For making a complete record of any cause, after final judgment, for every hundred words, or a copy of the same	12 1-2
For copy of any paper or record, not herein otherwise provided for, for every hundred words	12 1-2
For a search out of term time, for any thing above a year's standing where no copy is required, and for reading the same	12 1-2
For taxing costs, or copy thereof	25
For every necessary certificate to which the seal of office is required, and affixing seal	50
Taking any and every bond	50
For every necessary certificate not otherwise provided for, or copy thereof	12 1-2
For every order of continuance in court	6
For entering, finding of indictment, or filing information	25
For arraigning prisoner, and entering plea	50
For taking recognizance	50
For swearing and entering grand juries, issuing summonses, or presentments, and informations, and for witnesses, swearing juries, and witness on presentments, and indictment, where the party is not convicted, taking recognizance of prosecutions, witnesses, and defendants, certifying allowances, to the sheriffs, constables, and guards, and for all public services not herein otherwise provided for, to be paid from the public treasury on certificates of the court, to which such clerk shall belong, a sum per annum not exceeding	$50 00

TO THE CLERKS OF THE COUNTY COURTS.

	Cents.
For the like services by them performed, the same fees as are herein allowed to the clerks of the superior courts.	
For recording the probate of any will, or testament, and for letters testamentary thereon	100
For recording a will, testament, or codicil, for every hundred words	12 1-2
For administering oath to executors, or administrators, and taking bond, and recording the same	100
For letters of administration, and order granting the same	100
For order appointing appraisers of an estate and for copy	25
For recording an inventory, appraisement, for executors, administrators, or guardians accounts, for every hundred words	12 1-2

	Cents.
For order for tavern license, and taking bond	50
For a copy of tavern rates	25
For issuing a marriage license, and taking bond	100
For recording certificate of marriage, to be paid when license are issued	50
For recording certificate of estray, and copy for advertising at the court house	50
For an order binding out apprentice, and copy of the same	50
For recording indenture of apprenticeship	50
For filing appeal from a justice of the peace, docketing same, and all services incident thereto, in court	50
For recording a deed of bargain, and sale of lands, slaves, or other personal estate, whether by mortgage or not, and every certificate thereon, for every hundred words	12 1-2
For issuing a commission for taking the privy examination of a feme covert, &c. to a deed for lands	50
For recording the same, with the return thereof, for every hundred words	12 1-2
For recording a letter of attorney, with the certificate thereon, or for a copy thereof, for every hundred words	12 1-2
For recording any bond, note, articles of agreement, or any other writing not herein provided for, for every hundred words	12 1-2
For a copy thereof, for every hundred words	12 1-2
For entering and copying orders for viewing, and opening roads, for orders appointing overseers of roads, and copying the same, for orders for appointing overseers of the poor, and copying the same, and for all other public services, which no particular fee is herein specified or allowed, to be paid from the public treasury, out of the county funds, on a certificate of the court to which the clerk belongs, a sum not exceeding per annum,	$25 00

Provided, That no fee shall be allowed for issuing scire facias, against defaulting jurors, where they may be excused by the court.

TO THE SHERIFFS.

	Cents.
For levying an attachment on the estate of an absconding debtor	150
For summoning garnishee	50
For selling property attached, the same as for selling on a fieri facias.	
For serving *capias ad respondendum* or other mean process	100
For entering writ in sheriff's office	12 1-2
For returning capias or other mean process	12 1-2
For leaving copy of writ with defendant	25
For taking bail bond, assignment thereof, and returning same	50
For summoning each witness	50

	Cents.
For empannelling a jury in each cause, where a jury is sworn	25
For executing a *habere facias possessionem*	200
For making a deed to purchaser of real estate, sold or executed	200
For removing a prisoner, for every mile going and returning	5
For every day's attendance with such prisoner on the judge, in vacation	200
For committing a prisoner to jail, or releasement	50
For victualling prisoner per day	40
For serving a declaration in ejectment, and copy thereof, on each tenant in possession	100
For levying fieri facias, and making money thereon, for the first hundred dollars, five per cent. for all sums above one hundred dollars and not exceeding two hundred dollars, four per cent. and for every hundred dollars over in said execution, two and one half per cent.	
For levying fieri facias where sale is stayed by injunction, or supersedias, or not sold for want of bidders, or other cause, one half of the above commissions.	
For serving *ca sa* on each defendant, and commitment	100
For making money on *ca sa* same commissions as allowed on fieri facias.	
For executing a condemned person, & all incidents thereto	$10 00
For putting a person in pillory or stocks by order of court	100
For whipping a free person by order of court	200
For whipping a slave by order of court, to be paid by owner	100
For summoning a jury upon any inquisition in the county, and attending on said jury, and taking inquest, per day	200
For serving subpœna in chancery, for each defendant	50
Returning same	12 1-2
For serving scire facias on each defendant	50
For serving every person with a summons, not herein provided for	50
For serving an attachment for contempt, and returning same	100
For victualling a runaway slave, in jail, per day	40
For advertising such slave	100
For advertising and selling an estray	100
For taking a bond, in virtue of his office, other than is herein provided for	50
For taking bonds of every kind	50
For empannelling grand juries, advertising, and attending elections, serving all public orders of all courts in his county, and for all other public services, not herein otherwise particularly provided for, a sum not exceeding per annum, to be allowed, and certified by the superior court, and paid out of the public treasury	$50 00

Provided, That no fee shall be allowed for scire facias against defaulting jurors, where the same may be excused by the court.

TO THE CORONER.

To taking an inquisition on a dead body	$10 00
For all services done by him, the same fees as are allowed to sheriffs for similar services.	

TO CONSTABLES.

	Cents.
For summoning each witness	25
For serving a peace, or search warrant	100
For carrying a criminal to jail, per mile	10
For summoning a garnishee,	50
For making money on execution	75
For conveying a debtor to jail	75

TO JUSTICES OF THE PEACE.

	Cents.
For celebrating the rites of matrimony, and certificate thereof	200
For a warrant for apprehending a criminal	50
For a search or peace warrant	50
For a warrant in civil cases, and proceeding thereon to judgment	50 50
For a warrant in *qui tam* cases, and proceeding thereon to judgment	100
For an attachment, taking bond and affidavit	125
For summons for garnishee, and taking examination	50
For hue and cry	50
For transcript of a record, when required	25
For administering an oath, and certifying same	25
For taking depositions by virtue of a dedimus protestatem, for every hundred words	25
For every necessary certificate, not otherwise provided for	25
For posting an estray or estrays, the whole fee for each service	50

OF THE JUSTICES OF THE QUORUM.

For the like services by them performed, the same fees as are herein allowed to the justices of the peace.

TO THE CHIEF JUSTICE OF THE ORPHAN'S COURT.

	Cents.
For examining, stating, and reporting each account of executors, administrators or guardians	100
For sheet, more than one, contained in each account	50
For each order for advertising, issuing citations, and other notice or process	25
For appointing a guardian to a minor in vacation	100
For appointing a special administrator to collect the effects of a deceased person in vacation	100

TO NOTARIES PUBLIC.

	Cents.
For protesting any bill, registering, and seal,	150
For attesting letters of attorney, and seal,	50
For notarial affidavit to an account, or other writing and seal	50
For registering a foreign bill protested with certificates	75
For registering a protest of a bill of exchange, or note for non payment, or non acceptance,	50
For every oath, or affirmation, and seal	50
For a notarial precurration and seal,	100
For certifying of sales, at auction, and seal	75
For taking proof of debts, to be sent abroad, or proof and acknowledgment of letters of attorney and seal	75
For protest in insurance cases, and seal,	100

TO COUNSELLORS AND ATTORNIES AT LAW.

	Cents.
For prosecuting or defending a suit in county court	400
For like services in superior courts	600
For prosecuting or defending suit in chancery	1500
For prosecuting or defending a mixed or real action, where the title or bounds of lands are in question	2000

TO THE ATTORNEY GENERAL.

For the use of the Territory as a part of the Public Revenue.

	Cents.
For every criminal prosecution by indictment, in cases of felony where the offender is convicted	1000
For every prosecution for misdemeanors, where the offender is convicted	500
For every action by original writ in behalf of the territory, for the recovery of a pecuniary penalty, where the defendant is convicted	500

5. Sect. XI. The fees herein allowed shall be taxed and allowed in the bill of costs in all suits, where the services respectively shall have been rendered ; but not more than one copy of any matter shall be allowed in the bill of costs, neither shall the clerk tax more than one attorney's fee in the bill of costs, although more attornies than one may have been employed one the same side in the suit; and if any plaintiff or defendant, his or her attorney, shall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cause or of any common order made in such cause, the charge of such copies shall not be allowed in the bill of costs, although, such party recover ; and to the end, that all persons chargeable with any of the fees aforesaid may certainly know for what the same was charged,

6. Sect. XII. Every clerk and sheriff shall keep a fee-book; which

in the case of the clerk shall be considered, and is hereby declared to be one of the books belonging to his office, and shall enter therein, in a regular account, to be opened for that purpose, every fee for each and every distinct service, by him rendered, charging for every particular article, in words at full length, in the same manner as the fees aforesaid, and the said fee-book shall be free for the inspection of every person wishing to see the account of fees charged against him therein, and there shall be a regular index made to such book, pointing to the folio in which the respective accounts are contained, and no clerk or sheriff shall be allowed to take or demand any fee for any service by him performed, which shall not be justified by the charge made, and entered in his fee-book as aforesaid.

7. Sect. XIII. None of the fees herein before mentioned, shall be payable by any person whatsoever, until there be produced, or ready to be produced unto the person owing, or chargeable with the same, a bill, or account in writing, containing the particulars of such fees, signed by the clerk or officer to whom such fee shall be due, or by whom the same is chargeable, respectively, in which said bill or account shall be expressed in words at length, as the fees aforesaid are allowed by this act, every fee for which money shall be demanded, and in all cases where any person shall be presented or indicted by the grand jury, shall be discharged from such presentment or indictment, neither the clerks or sheriffs shall charge fees for the same, but it shall be deemed to be included in the public services; but if the party or parties, so presented or indicted, shall be convicted, then and in such case, the clerk and sheriff shall charge him, her, or them, with all fees accruing thereon.

8. Sect. XIV. If any officer before named, shall take greater or other fees, than are herein before allowed them, for any service, to be done in his office, or shall demand, and take any of the fees, aforesaid for services, not actually rendered, the officer so offending, shall forfeit and pay to the party injured, five times the sum so unlawfully demanded and taken, to be recovered before any court having cognizance of like sums.

Sect. XV. XVI. *Repealed January* 15, 1814.

9. Sect. XVII. The act, entitled "An act, to amend an act, entitled an act, establishing the fees of the several officers therein named and for other purposes," the tenth section of the act, concerning counsel and attornies at law, and also all other acts, and parts of acts, within the purview of this act, shall be, and the same are hereby repealed. This act shall commence and be in force from and after the passing thereof.

ACT of December 27, 1814. (Stat. p. 74.)

10. Sect. XXVIII. The following fees shall be taxed, and allowed

to justices of the quorum and of the peace, and constables, in discharge of their duties, viz:

FOR JUSTICES.

Docketing each cause	6 1-4 cents.
Issuing each warrant, summons, subpœnas or notice	25
Issuing attachment	$1
Taking attachment stay, or other bond	25
Issuing commission to take deposition	25
Taking deposition by commission, for each sheet	25
Each appeal with proceedings thereon, including bond	$1
Each necessary certificate and affidavit	25
Each mittimus or recognizance	50
Each judgment	25
Each execution	25

CONSTABLES.

Serving each warrant	50 cents.
Levying execution and making the money thereon	50
Serving subpœa, or notice	25
Taking bail bond for appearance or bond for the forthcoming of property	50
Levying attachment	75
Executing mittimus	$1
Whipping a slave by order of justice, to be paid by the owner	$1
Summoning coroner's inquest	$2
For each days' attendance at superior court, when summoned by the sheriff, one dollar, to be paid out of the territorial treasury	$1

ACT of December 20, 1815. (Stat. p. 50.)

11. Sect. I. Each and every petit and grand juror, of the original venire, shall be allowed the sum of one dollar for each and every day he shall attend in any court as a juror, to be paid out of any money in the county treasury not otherwise appropriated, on the certificate of the clerk of said court, in which shall be stated the number of days which such person attended as a juror, and the sum to which he is entitled; which certificate the clerk of said court is hereby required to issue accordingly, and the same shall be received in payment of county taxes.

12. Sect. II. Hereafter, it shall be the duty of the county courts in each county, to make such allowance to the clerks and sheriffs of their several counties, for their public services rendered either in the superior or county court as to said county court shall seem reasonable

and just: *Provided*, the sum allowed shall not exceed fifty dollars per annum to any clerk or sheriff; also to allow to all constables the sum of one dollar for each day they shall be necessarily attending the superior court, which sums of money shall be paid out of the county treasury; and no clerk, sheriff or constable, shall be entitled to receive any sum or sums of money out of the territorial treasury, under any pretext whatever, for public services rendered after the passage of this act.

SECT. III. For the purpose of providing a fund to defray county expences, the sum of two dollars shall be taxed in the bill of costs on all suits hereafter to be commenced in this territory, and shall be assessed and collected at the same time and in the same manner as other costs of suits, and paid immediately after collection, into the county treasury of the county wherein such suit was instituted; and also all fines and forfeitures shall hereafter be paid into the county treasury, and not into the territorial treasury; and the clerks of the courts shall return to the county treasury of their respective counties, an account of fines and forfeitures in the same manner and at the same time that they are now by law required to return the same to the auditor of public accounts, and to pay over the money when collected to the said county treasury, at the same time and in the same manner they are now by law required to pay the same into the territorial treasury, and the county treasurer is hereby required to proceed immediately against any officer who shall fail to comply with the provisions of this section.

13. SECT. IV. All acts and parts of acts coming within the purview and meaning of this act, be, and the same are hereby repealed.

ACT of December 27, 1815. (Stat. p. 81.)

14. SECT. III. The clerks of the several courts of this territory, shall endorse on all executions by them issued, the several items contained in the bill of costs in intelligible words and figures.

15. SECT. IV. The fee of attornies in each cause in the supreme court shall be $10 00 and hereafter the party prevailing in any suit which may be brought in any of the courts in this territory shall be considered as entitled to the tax fee allowed the attorney, and recover the same against the party cast in suit.

ACT of January 20, 1814. (Stat. p. 27.)

16. SECT. VII A person of skill and probity shall be appointed by the governor, clerk of the supreme court of errors and appeals, who shall do and perform all those things that appertain to the duties and office of a clerk of said court, and he shall receive for his services the same fees which are allowed by law to the clerk of the superior court of law and equity for Adams county for like services.

FINES AND FORFEITURES.

Clerks to issue executions, and account to auditor . . . 1
Sheriffs to account therefor to auditor 2
Clerks to account to auditor for taxes on law process in May and November annually . . 3
And for fines and forfeitures paid them 4
Justices of peace to account for, &c. 5
Jurisdiction of superior courts herein 6
Sheriffs not liable for escapes, &c. 7
Payable into county and not territorial treasury 8

ACT of February 26, 1808. (Stat. p. 5.)

1. Sect. I. The clerks of the several courts within this territory shall immediately after the rising of the respective courts issue execution in all cases in which executions are issued, by law, for the fines, forfeitures and amercements, that may have accrued to the territory, and unpaid, previous to the rising of such court, and shall respectively on or before the first days of May and November, in each and every year, transmit to the auditor of public accounts, a test of all such fines, forfeitures and amercements, imposed by said courts respectively, in the six months next preceding, to the use of the territory, together with the name of the sheriff or other officers that shall have become liable to pay the same by law, to enable said auditor to call them to account. And every clerk failing to perform the aforesaid duty, shall forfeit and pay the sum of two hundred dollars, to be recovered by the auditor of public accounts, on motion to the supreme court, applied to the use of the territory : *Provided*, that ten days notice in writing be given of every such motion.

2. Sect. II. If any sheriff or other officer shall make return upon any writ of fieri facias, or venditioni exponas, that he hath levied the fine, forfeiture, or amercement, as in such writ is required, or any part thereof, or shall return upon any writ of capias ad satisfaciendum, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the fine, forfeiture or amercement, in such writ mentioned, or have suffered him, her or them to escape, or if any person shall be committed to the custody of such officer, by any of the courts of this territory, until the fine, forfeiture or amercement, for which he, she or they were committed, shall be paid, and shall suffer him, her or them to escape, or shall actually have received the same, and shall not in every such case immediately, or as soon as may be, account to the auditor and pay the same into the territorial treasury, then and in each of said cases, it shall and may be lawful for the auditor of public accounts, upon motion made in the supreme court, to demand judgment against such sheriff or other officer, or their securities for the fine, forfeitures or amercements, mentioned in such writ,

or for so much as shall be returned levied, or for the amount of which the defendant or defendants shall have been committed, and such court is hereby authorised and required to give judgment accordingly, and award execution thereon: *Provided*, such sheriff or officer have ten days previous notice of such motion.

SECT. III. *Repealed.*

3. SECT. IV. It shall be the duty of the clerks of the several courts within this territory, on or before the first day of May and November, in each and every year respectively, to account on oath to the auditor of public accounts, and pay into the territorial treasury the amount of all taxes that shall become due from them by law on law process, and suits; and if any clerk shall neglect or refuse so to account, and pay as aforesaid, then, and in such case, it shall and may be lawful for the auditor of public accounts, on motion made in the supreme court, to demand judgment against such clerk or their security, for double the amount of taxes that may be due and owing from said clerk by law, which he shall ascertain from the truest information he can get of the same, and such court is hereby authorised and required to give judgment accordingly, and award execution thereon: *Provided*, such clerk have ten days previous notice of such motion.

4. SECT. V. If any clerk of any of the courts of this territory shall receive any fine, forfeiture or amercement, which shall come into his hands by law, he shall account for and pay the same in like manner and be subject to the same remedy and proceedings against him for default, as is directed by this act in case of taxes on law process.

5. SECT VI. All fines imposed by law, and collected by any justice of the peace, in behalf of this territory, shall be accounted for by such justice, and paid in like manner, and subject to the same remedy and proceedings against him for default, as is directed by this act in case of fines received by clerks.

ACT of December 24, 1812. (Stat. p. 123.)

6. SECT. I. The superior court of law and equity, in each and every county within this territory, shall have power to give judgment and award execution against any clerk of a court for a failure to comply with the requisitions of the first section of the act to which this is an amendment, in the same manner that the supreme court formerly could have done.

7. SECT. II. No sheriff or coroner, as the case may be, shall be liable to pay the fine, or forfeiture, or amercement, which may have been imposed by any court of this territory, against any person who shall have been committed to his custody, by the court imposing the same, or where any person shall be taken in execution to satisfy any fine, forfeiture or amercement, unless such sheriff or coroner shall have re-

ceived the money, or suffered a wilful or negligent escape; but whenever the proper tribunal shall have discharged any person who was committed or taken in execution as aforesaid, or such person shall have escaped without any connivance, or neglect of the sheriff, or coroner, (as the case may be) upon proof thereof made to the superior court of law and equity of the county where such person has been in custody, such court shall certify the same to the auditor of public accounts, who shall release such officer from the fine and forfeiture, or amercement, with which he may have been charged, on account of such person committed by the court or taken in execution as aforesaid.

ACT of December 20, 1815. (Stat. p. 51.)

8. Sect. III. For the purpose of providing a fund to defray county expences, the sum of two dollars shall be taxed in the bill of costs on all suits hereafter to be commenced in this territory, and shall be assessed and collected at the same time and in the same manner as other costs of suits, and paid immediately after collection into the county treasury of the county wherein such suit was instituted; and also all fines and forfeitures shall hereafter be paid into the county treasury, and not into the territorial treasury; and the clerks of the courts shall return to the county treasury of their respective counties, an account of fines and forfeitures in the same manner and at the same time that they are now by law required to return the same to the auditor of public accounts, and to pay over the money when collected, to the said county treasury, at the same time and in the same manner they are now by law required to pay the same into the territorial treasury, and the county treasurer is hereby required to proceed immediately against any officer who shall fail to comply with the provisions of this section.

FORCIBLE ENTRY AND DETAINER.

Non-entry on land, unless by law . 1
What constitutes the offence . 2
Tenants holding over . . . 3
Cognizable before justices of the peace 4
Form of proceedings . . . ib.
Defendant's plea, not guilty . 5
Jurors' oath 6
Form of trial, verdict, judgment and cost—writ of restitution, and execution for cost . . . 7
Trial may be postponed . . 8
Justice to make up record . . 9
Penalty on sheriff neglecting his duty 10
After judgment, case may be removed by Certiorari . . . 11
This proceeding to be no bar to other remedies . . . 12
No enquiry into title, or after three years possession . . 13
Justice may issue subpœnas for witnesses 14
Fees to justice, sheriff, jurors, witnesses and attorney . . 15
Penalty on jurors and witnesses 16
Act allowing treble costs repealed 17

ACT of February 10, 1805. (Dig. p. 263).

1. Sect. I. No person shall enter upon, or into any lands, tenements or other possessions, and detain or hold the same, but where entry is given by law; and then only in a peaceable manner.

2. Sect. II. If any person shall enter upon, or into any lands, tenements or other possessions, and detain and hold the same, with force or strong hand, or with weapons, or by breaking open the doors, windows or other part of a house, whether any person be in it or not, or by any kind of violence whatsoever, or by threatning to maim, kill or beat the party in possession, or by such words, circumstances or actions as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors or carrying away the goods of the party in possession, or by entering peaceably and then turning by force the party out of possession, or frightning by threats or other circumstances of terror—in such case, every person so offending, shall be guilty of a forcible entry and detainer, within the meaning of this act,

Sect. III. No person shall lawfully, or peaceably enter upon, or into any lands, tenements or other possessions, shall hold or keep the same unlawfully, and with force or strong hand, or weapons, or violence, or menaces, or terrifying words, circumstances or actions aforesaid.

And it is hereby declared, That whatever words or circumstances, conduct or actions, will make an entry forcible, under this act, shall also make a detainer forcible.

Sect. IV. The three preceding sections of this act, shall extend to, and comprehend, terms for years, and all estates, whether freehold, or less than freehold.

5. Sect. V. If any tenant or tenants, for term of life or lives, year or years, or other person or persons, who are or shall be in possession of any lands, tenements, or hereditaments, by, from, or under, or by collusion with such tenant or tenants, shall wilfully and without force hold over any lands, tenements or hereditaments, after demand and notice in writing given for the delivery of the possession thereof, by his, her, or their landlord or landlords, lessor or lessors, or the person or persons to whom the remainder or reversion of such lands, tenements or hereditaments shall belong, his, her, or their agent or attorney, thereunto lawfully authorised, then such person or persons, so holding over, shall be guilty of an unlawful detainer.

4. Sect. VI. The aforesaid forcible entries and detainers, and unlawful detainers, are hereby made cognizable before any justice of the peace of the county in which they are committed.

Sect. VII. When complaint to any justice of the peace, of the proper county, shall be made in writing, and signed by the party aggrieved, his agent or attorney, specifying the lands, tenements, or other possessions, so forcibly entered upon and detained, or forcibly or unlawfully detained, by whom, and when done, and the estate therein, it shall be the duty of the said justice to issue a precept, under his hand and seal, directed to the sheriff of the said county, commanding him to cause to come before the said justice, twelve good and lawful men of the said county, qualified to serve as pitit jurors, to enquire into and try such forcible entry and detainer, or forcible or unlawful detainer; which precept shall be in the form, or to the effect following—that is to say:

COUNTY OF ————, *ss.*

The Mississippi territory, to the sheriff of the said county, greeting: Whereas complaint is made to the undersigned justice of the peace for the said county, of a certain forcible entry or detainer, or of a certain unlawful detainer, (as the case may be) made by E. F. into the messuage, or upon the lands of C. D. in the county aforesaid—you are therefore, hereby commanded to cause to come before the undersigned justice aforesaid, at the hour of , in the noon of the day of , twelve good and lawful men of your county, to enquire of and try the said forcible entry and detainer, or forcible or unlawful detainer. Given under the hand and seal of the said justice, this day , in the year of our Lord one thousand, &c. L. S.

SECT. VIII. The said justice shall issue a summons to the party complained against, in the words, or to the effect following:

COUNTY OF ————, *ss.*

Mississippi territory, to the sheriff of the said county, greeting: You are hereby commanded to summon E. F. of the said county, to appear before the undersigned justice of the peace, in and for the county aforesaid, at the hour of in the noon of the day of , to answer to and make defence against the complaint of C. D. of a forcible entry and detainer, made by the said E. F. into the messuage, or upon the lands of the said C. D. in the county aforesaid; and have you then and there this precept, with a return of your proceedings therein. Given under the hand and seal of the said A. B. the day of , in the year of our Lord one thousand, &c. A. B. (L. S.)

SECT. IX. The said summons shall be served upon the party against whom the said complaint is made, or a copy thereof left at his usual place of abode, six entire days before the day of appearance in mentioned; and that such service of the said summons, in any part of this territory, as well out of the said county as in it, shall be good and effectual in law. And further, that no jury shall, by virtue of this act, be sworn to enquire of and try any forcible entry and detainer, or forcible or unlawful detainer, where such previous notice shall not have been given, as aforesaid.

5. SECT. X. The party against whom such complaint is made, may, at the time of appearance mentioned in the said summons and before the said jury is sworn, plead not guilty, to the charge or complaint, or

that he hath been three years in quiet possession, and his estate therein not ended or determined, agreeably to a subsequent clause in this act, and thereupon the parties shall be at issue; and the said justice shall proceed to swear the jury, so returned, to enquire of and try the same. And if the said party, against whom the complaint is made as aforesaid, does not appear, at the time specified in the said summons, or appearing, does not plead to the said complaint, then it shall be lawful for the said justice to proceed in the same manner, as if he had pleaded not guilty.

6. Sect. XI. To the said jurors, and each of them, who shall be returned to enquire of and try the said complaint, the justice shall administer the following oath, or affirmation :—" You do swear, or affirm, that you will well and truly try this issue, joined between C. D. and E. F. and a true verdict give according to the evidence."

7. Sect. XII. When the jury shall be sworn, as aforesaid, the justice shall cause the said complaint to be read to them, and then call upon the complainant to support the same.

Sect. XIII. If the jury find the party against whom such complaint is exhibited, guilty, or find against his plea of possession, it shall be the duty of the said justice to record the said verdict, and to give judgment thereon, with treble costs;* and also to issue a writ of restitution, directed to the sheriff, to cause the complainant to be re-seized, or repossessed; to which shall be added, a clause commanding the said sheriff to levy the said costs, of the goods and chattels of the offender; and for want thereof, to take the body of such offender, and safely keep him in close custody, in the common jail of the county, until he shall pay the same, or be thence delivered by due course of law.

Sect. XIV. If the jury find against the complainant, the said justice shall record the verdict and give judgment accordingly, with costs, and shall issue execution, directed as aforesaid, for the said costs, against the goods and chattels; and in want thereof, against the body of the complainant.

8. Sect. XV. The said justice may, at the request of either party, and on good reasons being assigned, postpone the said trial to any time not exceeding fifteen days; but such postponement shall be on the payment of costs.

9. Sect. XVI. It shall be the duty of the said justice to enter on his minutes, or docket, true copies of the complaint exhibited by virtue of this act, of the summons and *venire*, and their respective returns,

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* Treble costs repealed.

and the names of the jurors, their verdict, and his judgment thereon; and also, the names of the witnesses, and the admission of evidence objected to, and the rejection of evidence offered, the reason of such admission or rejection, and all the proceedings had before him, touching the said complaint.

10. Sect. XVII. If the sheriff of any county shall neglect, or refuse to execute or return any precept, writ, or other process, directed and delivered to him by virtue of this act, he shall, for every such offence, forfeit and pay two hundred dollars, to the party aggrieved; to be recovered, with costs, by action of debt, in any court of this territory having cognizance thereof.

11. Sect. XVIII. The proceedings had by virtue of this act on such forcible entry and detainer, or forcible or unlawful detainer, may be removed before the circuit court of the county in which the same may have taken place, and in the district of Washington, before the superior court of the said district; and such removal shall be by writ of *certiorari*, and in no other way; and then only after judgment.

12. Sect. XIX. Neither the said judgment, or any thing in this act, shall bar or prevent the party injured from bringing an action of trespass, or other actions against the aggressor, or party offending.

13. Sect. XX. The estates, or merits of the title, shall in no wise be enquired into, or any complaint which shall be exhibited, by virtue of this act: *Provided always*, That this act shall not extend to any person who hath had the uninterrupted occupation, or heen in quiet possession of any lands or tenements, for the space of three whole years together, immediately preceding such complaint, so exhibited to the said justice, and whose estate therein is not ended or determined, but every such person may plead the same to the said complaint, which shall be tried in the manner herein before prescribed.

14. Sect. XXI. Every justice of the peace, before whom any prosecution shall be instituted by virtue of this act, shall be, and he is hereby authorised to issue writ of *subpœna ad testificandum*, into any county of this territory.

15. Sect. XXII. In prosecutions under this act, the following fees shall be allowed:

TO THE JUSTICE.

	Dolls.	*Cents.*
For every summons - - - - -		30
For every *venire facias* - - - - - -		40
For entering copies of all proceedings thereon -	2	00
For *subpœna* for every witness - - -		12
For swearing the jury - - - -		20

For administering every oath, or affirmation - -		6
For entering verdict - - - - - -		12
For entering every judgment - - - -		12
For every trial - - - - - -	2	00
For return to every *certiorari* - - - -	1	00

TO THE SHERIFF.

For serving every summons, and return - -	1	00
For summoning every jury, returning precepts and attending the trial - - - -	4	00
For executing every writ of restitution - - -	2	00

For serving every execution for costs, advertising property for sale, &c. the same fees as are, or shall be allowed for like services in the county courts.

TO THE JURORS AND WITNESSES.

The same fees as are, or shall be allowed to them, respectively, in civil cases, in the county courts.

TO THE ATTORNEY.

For the trial of every cause - - - - -	3	00

16. Sect. XXIII. Every person summoned as a juror, or subpœnaed as a witness, who shall not appear, or appearing shall refuse to serve, or give evidence, in any prosecution, instituted by virtue of this act, shall forfeit and pay, for every such default or refusal, unless some reasonable cause be assigned, such fine, not exceeding eight dollars, in the case of a juror, and not exceeding one hundred dollars in the case of a witness, as the said justice shall think proper to impose. And such justice is hereby authorised and requied to issuean execution, directed to any constable of the said county, to levy the same, of the goods and chattels of the said offender. Which fine, when recovered, shall be applied by the said justice to the use of the said county.

Act of December 3, 1810. (Stat. p. 11.)

17. Sect. I. So much of the thirteenth section of the act, to which this is an amendment, as authorises the collection of treble costs against the person complained against in case he be cast, be, and the same is hereby repealed.

FRAUDS AND PERJURIES.

What promises and agreements must be in writing . . 1
Fraudulent conveyances void; what deemed fraudulent, and what not 2
This act not to extend to *bona fide* conveyances, on good consideration, &c. 3

ACT of November 18, 1803. (Dig. p. 260.)

1. Sect. I. No action shall be brought whereby to charge any executor or administrator, upon any special promise, to answer any debt or damage, out of his own estate; or whereby to charge the defendant upon any special promise, to answer for the debt, default, or miscarriage of another person; or to charge any person upon any agreement, made upon consideration of marriage, or upon any contract for the sale of lands, tenements or hereditaments, or the making any lease thereof for a larger term than one year, or upon any agreement which is not to be performed within the space of one year from the making thereof, unless the promise or agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorised.

2. Sect. II. Every gift, grant, or conveyance of lands, tenements or hereditaments, goods or chattels, or of any rent common, or profit out of the same, by writing or otherwise; and every bond, suit, judgment or execution had, or made and contrived of malice, fraud, covin, collusion or guile, to the intent or purpose to delay, hinder or defraud creditors of their just and lawful actions, suits, debts, accounts, damages penalties or forfeitures, or to defraud or deceive those who shall purchase the same lands, tenements or hereditaments, or any rent, profit or commodity out of them, shall be from henceforth deemed and taken only as against the person or persons, his, her or their heirs, successors, executors, administrators or assigns, and every of them, whose debts, suits, demands, estates, interests, by such guileful and cocinous devices and practices as is aforesaid, shall or might be in any wise disturbed, hindered, delayed or defrauded, to be clearly and utterly void; any pretence, color, feigned consideration, expressing of use, or any other matter or thing to the contrary, notwithstanding.—And moreover, if any conveyance be of goods or chattels, and be not on consideration deemed valuable in the law, it shall be taken to be fraudulent within this act, unless the same be by will, duly proved and recorded, or by deed in writing acknowledged or proved. If the same deed include lands, also in such manner as conveyances of land are by law directed to be acknowledged or proved; or, if it be of goods and

chattels only, then acknowledged or proved by one or more witnesses in the superior court, or county court, wherein one of the parties lives, within twelve months after the execution thereof; or, unless possession shall really, and *bona fide*, remain with the donee. And in like manner, where any loan of goods and chattels shall be pretended to have been made to any person, with whom, or those claiming under him, possession shall have remained by the space of three years, without demand made and pursued by due course of law on the part of the pretended lender; or where any reservation or limitation shall be pretended to have been made, of a use or property by way of condition, reversion, remainder, or otherwise, in goods and chattels, the possession whereof shall have remained in another, as aforesaid, the same shall be taken as the creditors and purchasers, of the persons aforesaid, so remaining in possession, to be fraudulent within this act; and that the absolute property is with the possession; unless such loan, reservation or limitation of use, or property, were declared by will or by deed, in writing, proved and recorded as aforesaid.

3. Sect. III. This act shall not extend to any estate or interests, in any lands, goods or chattels, or any rents-common, or profit out of the same, which shall be upon good consideration, and *bona fide*, lawfully conveyed or assured to any person or persons, bodies politic or corporate.

See Courts, No. 185.

GENERAL ASSEMBLY.

Sessions, when and where to commence 1
Reading, clerk allowed, his compensation 2
Secretary to furnish printer copies of acts 3
Laws and journals, number and how printed 4
Compensation therefor . . 5
Public printer refusing, governor to appoint 6
Distribution of laws and journals . 7
By whom . . . . . . ib.
Secretary allowed clerk hire . 8
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Public printer to be appointed annually 10
Copies of acts, when to be furnished by secretary to printer . 11
Public printer elect, failing to give bond, another to be appointed 12
Compensation to members . 13
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—— when to commence . ib.
Time of commencement of sessions 14
Copies of journals to be furnished the printer weekly, and when to be printed 15
Laws and journals, how distributed for Madison . . . 16
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Secretary to draw monies therefor 18

Secretary and clerk to assort and file papers 19
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Clerk's duty in letting out books to members . . . . . ib.
Distribution of laws and journals, to be delivered to clerks of courts 22
Compensation for distributing 23
Repealing section.

ACT of February 26, 1808. (Stat. p. 13.)

1. **Sect. I.** From and after the adjournment of the present session of the general assembly, the next and each ensuing session shall commence at the town of Washington on the first Monday in November in each and every year until otherwise altered by law.

ACT of December 9, 1811. (Stat. p. 43.)

2. **Sect. I.** The clerk of the House of Representatives shall, under the direction of the speaker thereof, be, and he hereby is authorised to employ a reading clerk, whenever he may deem it expedient, and such reading clerk shall be entitled to demand, and receive for his services, three dollars per day, to be paid out of the public treasury, and shall not be considered as any part of the compensation allowed to the clerk of the House of Representatives under the act to which this is an amendment.

ACT of December 16, 1811. (Stat. p. 69.)

3. **Sect. I.** The secretary of this territory shall, as soon as conveniently may be, after he shall receive the same, cause to be made out and delivered an attested copy of the acts, passed at each session, to the public printer. It shall be the duty of the said secretary, carefully to compare the printed copies with the originals.

4. **Sect. II.** Five hundred copies of the laws, enacted at each session, shall be printed by the public printer, within one month after an attested copy shall have been delivered to him, with marginal notes and an index, of the same description of page as the laws of the last session of the assembly, on good paper, and with a good, neat type; and also, seventy-five copies of the journals of the House of Representatives, and seventy-five copies of the journals of the Legislative Council, and such bills as either house may order, from time; the said journals to be printed on the same kind of paper and type, and with pages of the same size, as the laws are herein required to be printed.

Sect. III. *Expired.*

5. **Sect IV.** The public printer shall receive at the rate of one dollar and fifty cents per page, for the number of pages contained in

one copy of the laws, one copy of the journals of the House of Representatives, and one copy of the journals of the Legislative Council, in full compensation for the printing required to be done by this act, to be paid out of the territorial treasury, on the certificate of the secretary of the territory that the said printer has printed the laws and journals according to this act, and setting forth the sum which said printer is entitled to for said services, on which certificate the auditor of public accounts shall issue a warrant on the territorial treasurer, for the amount therein stated.

SECT. V. *Repealed January* 22, 1814.

6. SECT. VI. If the public printer aforesaid, shall refuse or neglect to print the laws and journals, within the time directed in this act, then, and in that case, the governor shall, and may employ another printer to perform the said services, and the expense attending the same, shall be paid in the same manner as is directed in this act.

7. SECT. VII. The said laws shall be distributed as follows, to wit: One copy to the governor, one to the secretary, one to each of the territorial judges, one to each justice of the quorum, one to each justice of the peace, one to each attorney general, one to each member of the general assembly, one to each sheriff, one to each coroner, one to the clerk of each court of record within this territory, one to the secretary of the Council, one to the clerk of the House of Representatives, one to the brigadier-general, one to each militia colonel, major, and captain, one to the President of the United States, one to each county surveyor, one to the territorial treasurer, one to each county treasurer, and one to the auditor of public accounts; the said journals shall be distributed as follows, to wit: One copy of the journal of each house to the governor, one to the secretary of the territory, one to each member of the general assembly, one to the secretary of the Council, one to the clerk of the House of Representatives, and the residue shall be equally divided among the several counties, for the use of such of the citizens thereof as may apply for them: *Provided, nevertheless,* That no person shall receive more than one copy of the laws, and of the journals of each house.

SECT. VIII. It shall be the duty of the secretary of the territory to distribute the said laws and journals.

8. SECT. IX. The secretary of the territory shall be allowed reasonable clerk's hire, for copying and comparing the original rolls of the said laws, to be paid on the certificate of the said secretary to the auditor of public accounts, who shall give his warrant on the territorial treasurer for the amount thereof.

SECT. X. *Expired.*

SECT. XI. *Repealed December* 27, 1814.

9. SECT. XII. The laws and journals required by this act to be distributed, as far as respects the counties east of Pearl river and Madison county, shall be sent by the secretary to the county court clerk's office of each of those counties respectively, and it shall be the duty of the secretary, to write on each copy to be distributed under this act, the name of the officer for whom it is intended.

10. SECT. XIII. There shall be appointed, by joint ballot of both houses of the legislature, at the commencement of each regular session, a public printer, who shall continue in office until his successor is appointed.

ACT of November 14, 1812. (Stat. p. 3.)

11 SECT. I. It shall be the duty of the secretary of the Mississippi territory, to furnish the public printer with a true copy of each and every act of the general assembly, in one day after its approval by the governor.

SECT. II. *Repealed January* 15, 1814.

12. SECT. III. If the public printer appointed shall neglect or refuse, for the space of three days, to give bond and security, agreeably to the provisions of the third section of the act to which this is an amendment, then, and in that case, the legislature shall proceed to the election of another printer.

ACT of December 24, 1812. (Stat. p. 119.)

13. SECT. I. The president of the legislative council, and speaker of the house of representatives, shall hereafter be entitled to receive four dollars, and each other member of the general assembly, three dollars for each and every day's attendance at the general assembly, and shall moreover be allowed at the commencement and end of every session, three dollars for every twenty miles of the estimated distance by the most usual road, in coming to, and returning home from the place where the general assembly shall sit, and in that proportion for a shorter distance; and if any member of the general assembly shall be detained by sickness, in coming to, and returning home from any session of the general assembly, or be unable to attend the house to which he belongs, he shall be entitled to the same daily allowance.

SECT. II. The secretary of the legislative council shall be allowed five dollars, and the clerk of the house of representatives five dollars per day, and each of them may, when it may be necessary, employ under the directions of the president of the council and speaker of the house of representatives respectively, an engrossing clerk, who shall also be enrolling clerks, and shall receive each three dollars per day, and the clerk of the house of representatives may, also under the direction of the speaker thereof, employ when necessary, an enrolling clerk besides, who shall likewise receive three dollars per day.

Sect. III. There shall be a door keeper appointed by each house of the general assembly, who shall receive each two dollars per day for each day employed in the service of the house to which they respectively belong, and they and each of them shall, in addition to the services heretofore performed by them, perform to the houses respectively, the duties heretofore assigned to the sergeant of arms.

Sect. IV. The compensation which shall be due to the members and officers of the general assembly, shall be certified by their president and speaker respectively to the auditor of public accounts, who shall issue his warrant therefor on the territorial treasurer, which shall be paid out of the territorial treasury.

Sect. VII. This act shall be in force from and after the first day of January next, ensuing

ACT of December 24, 1812. (Stat. p. 131.)

14. Sect. XIX. The next, and all future sessions of the general assembly, shall commence on the first Monday in November, in each and every year.

ACT of January 15, 1814. (Stat. p 13.)

15. Sect. I. Hereafter it shall be the duty of the clerk of the house of representatives, and the secretary of the legislative council, to furnish the public printer with a copy of the journals of their respective houses weekly; and it shall be the duty of the public printer to print the laws and journals each session of the general assembly within ten days after the rising of the legislature.

ACT of December 27, 1814. (Stat. p. 32.)

16. Sect. I. It shall be the duty of the secretary of the Mississippi territory, immediately on the receipt of the laws and journals from the public printer, to cause that portion of them, to which Madison county is entitled, to be forwarded by mail to the clerk of the superior court of said county, to be by him distributed according to law.

17. Sect. II. It shall be the duty of the said secretary, immediately on the receipt of the said laws and journals as aforesaid to employ a proper person to carry that portion of them, to which the counties on Pearl River and west thereof are entitled, and another to carry those to which the counties east of Pearl River are entitled, forthwith to the clerks of the superior courts of each county respectively, to be by them distributed according to law.

18. Sect. III. The secretary of the territory be, and is hereby authorised, to draw on the auditor of public accounts in favor of the post master at the town of Washington for the amount of the postage on the laws and journals, so sent to Madison county; to draw in favor of the person employed to carry them to the counties west of Pearl River, a sum not exceeding fifty dollars; and in favor of the person employed to carry them to the counties east of Pearl River, a sum not exceeding seventy dollars; which shall be paid out of any money in the territorial treasury not otherwise appropriated, any law to the contrary notwithstanding.

RESOLUTION of December 27, 1814. (Stat. p. 54.)

19. Sect. I. It shall be the duty of the secretary of the legislative council, and clerk of the house of representatives at the end of the present session to separate as far as may be practicable, the papers belonging to the general assembly and put the same up in files, placing in one file those of the same kind, and marking thereon the session and house to which they respectively belong, and shall place the same in the presses belonging to the legislature, those of the council in one, and those of the house of representatives in the other; and the secretary of the council and clerk of the house of representatives shall, at the end of every session, hereafter, rent a room, exclusively, for the safekeeping of the papers and furniture belonging to both houses, and shall employ some person to take charge thereof; provided that the expense attending the same shall not exceed the sum of seventy-five dollars per annum.

RESOLUTION of December 27, 1814. (Stat. p. 55.)

20. Sect. I. The governor of this territory be and he is hereby requested to rent a house in the town of Washington for the accommodation of the next session of the general assembly, to commence on the date of this resolution and to end on the last day of the next session, and to cause such alterations to be made therein as to him may appear necessary for that purpose; and the house so rented by him may in the recess (except the largest room) be occupied by the proprietor, and the room so excepted shall be appropriated exclusively during that time to the safe keeping of the furniture and papers of the general assembly under the charge of the said proprietor: *Provided,* That the expense attending the same does not exceed the sum of one hundred and fifty dollars in addition to the sum appropriated during the present session for the safekeeping of the furniture and papers of the legislature.

ACT of November 29, 1815. (Stat. p. 9.)

21. Sect. I. The secretary of the territory be and he is hereby requested to procure by purchase a complete set of the acts of Con-

gress of the United States, together with a Digest of the laws of the several States of the Union, now in force; also three of the most approved Dictionaries of the English Language, a Bible, Jacob's Law Dictionary, American Edition, Smith's Wealth of Nations, Montesquie's Spirit of Laws, Vattelle's Law of Nations, Tucker's Blackstone, the book called "The Constitutions of the several States," and the work called "The Federalist," for the use of the legislature of this territory, and draw on the auditor of public accounts for such sum or sums of money as may be necessary for the purchase and importation of said books, and the auditor of public accounts is hereby required to draw his warrant on the territorial treasurer for the sum or sums so drawn for.

Sect. II. It shall be the duty of the clerk of the house of representatives for the time being when the said books are obtained to take charge thereof, and place them in the press belonging to that house, subject to the inspection only of the members of the general assembly: and the said clerk shall at all times be deemed responsible for their safe keeping. A reasonable allowance shall be made annually to the clerk for the trouble he may be at in taking care of said books and in delivering them out from time to time to the members.

Sect. III. The clerk shall take a receipt for every book delivered by him, and no member shall be entitled to receive more than one at any one time, nor hold possession of the same for more than three days.

ACT of December 23, 1815. (Stat. p. 61.)

22. Sect. I. The persons directed to be employed, by the second section of the act to which this is a supplement, shall deliver the aforesaid laws and journals to the clerks of the superior courts of the several counties to which such persons have been employed to carry the same, or if there be no clerk of the superior court of any such county or should the clerk be absent from the county, then, and in that case, the same may be delivered to the clerk of the county court of the respective counties, whose duty it shall be to receipt to such person for the same.

23. Sect. II. The auditor of public accounts be, and he is hereby authorised and required, on the person who may be employed to carry the laws and journals to the counties east of Pearl River, producing the receipts for the same, from the several clerks of the counties aforesaid, to issue his warrant on the territorial treasurer in favor of such person for the sum of one hundred and fifty dollars; and on the person employed to carry the laws and journals to the counties west of Pearl River, producing the receipts of the clerks of the last mentioned counties for the same, to issue his warrant on the territorial treasurer,

in favor of such person, for the sum of one hundred dollars, as a full compensation for their services aforesaid.

24. Sect. III. So much of the third section of the act to which this is a supplement, as comes within the purview and meaning of this act, be, and the same is hereby repealed.

* * *

HIGHWAYS, FERRIES AND BRIDGES.

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ACT of March 1, 1805. (Dig. p. 387.)

1. **Sect. I.** All roads and ferries in the several counties of this territory, that have been laid out or appointed, by virtue of any act of assembly, heretofore made, or by virtue of any order of court, are hereby declared to be public roads and ferries. And that from time to time, and at all times hereafter, the courts of the several counties in this territory shall have full power to establish ferries, and determine the tolls of the same; and to order the laying out public roads where necessary; and appoint where bridges shall be made; and to discontinue such roads as now are, or shall hereafter be made, as shall be found useless; and to alter roads so as to make them more useful, as often as occasion shall require.

Sect. II. Every county court within this territory is hereby authorised and empowered to call any person or persons in their respective counties to account for any monies such person or persons may have in his or their hands, by virtue of any distress heretofore made, or may hereafter be made, for default of working on any road in such county; and all such monies to receive and apply towards keeping in repair the roads and bridges on which such default was made.

2. **Sect. III.** All roads hereafter to be laid out, shall be laid out by a jury of freeholders, to be appointed by the county court, consisting of seven persons, to the greatest advantage of the inhabitants, and as little as may be to the prejudice of inclosures. Which laying out, and such damages as private persons may sustain, shall be done and ascertained by the same jury, on oath; which oath shall run in these words, to wit:—"I, A. B. do solemnly swear, that I will lay out the road now directed to be laid out by the county court, to the greatest ease and advantage of the inhabitants, and with as little prejudice to inclosures as may be, without favor or affection, malice or hatred, and to the best of my skill and knowledge. So help me God."

And all damages hereafter to be assessed, shall be deemed a county charge, and be defrayed from a tax on each county, to be laid out for contingent charges.

3. **Sect. IV.** All roads so laid out, shall be deemed public roads, and shall be at least twenty feet wide. And where to the overseers of roads it may appear expedient to make or repair causeways on the same roads, they shall be at least twelve feet wide; and the earth necessary to raise and cover the said causeways, shall be taken from each side of the causeway, equally, and so as to form a drain on each side of the said causeway. And the overseers of roads are hereby directed to have completely cut all trees and stumps, not to exceed six inches above the ground, and pared round the edges, in the highways, under their care. And all bridges hereafter directed to be made over small creeks, or runs, shall be twelve feet wide, as directed in the case of causeways.

4. **Sect. V.** Where a bridge shall be necessary over any place, where the overseer with his assistants cannot conveniently make it, the court of that county, wherein such place shall be, is hereby empowered and required to contract and agree for the building, keeping and repairing thereof; and to lay the charge on their county. And when bridges shall be necessary over any such creek or river which divides one county from another, the court of each county shall join in the agreement for building, keeping and repairing the same; and the charge thereof shall be defrayed by both counties, in proportion to the number of taxables in each.

Sect. VI. All and every contract, agreement, and order by the justices of the court of any of the counties aforesaid, entered into or made for, or concerning the building, keeping or repairing of bridges, in such manner as to them shall seem most proper, shall be good against them and their successors.

Sect. VII. The justices of the courts, through whose counties run large water courses or creeks, which, from the rapidity of the water and width of the stream, may be too burthensome to build bridges and keep them in repair by a tax on the inhabitants, it shall and may be lawful for a majority of the justices of such county court, where it may be necessary to contract with builders, to build toll bridges or expensive causeways, for each of which, each court is hereby authorised and required to lay the toll, to be placed on all persons, horses, carriages and cattle passing over the same; and the revenue arising from which, for such a number of years as the said courts may agree upon, to be granted unto the builders of such bridges, their heirs and successors, for the building thereof. Which bridges being built under direction of the said courts, and the revenue arising from the toll thereof, so granted the said builder or builders, his or their heirs or successors, shall keep in constant repair, at his or their sole expense; in default of which, on conviction thereof, he or they are hereby declared to forfeit all right and title to the toll allowed by the court.

5. **Sect. VIII.** The justices of the respective county courts shall

have power, and they are hereby required to divide the public roads into precincts or districts ; direct what persons shall work on each road, and in what precinct ; and so that no person shall be compelled to work on more than one road, nor more than six days in one year upon any road.

SECT. IX. The courts of the several counties shall annually appoint overseers of the roads or highways, whose duty it shall be to give three days previous notice, by summons, in person, or in writing left at their respective places of abode, to all free male persons, as well as to the owners or overseers of all male slaves, from the age of sixteen years to fifty, residing within their respective precincts, except such persons as may be exempted from such service by law ; to meet at such times and places as they may appoint, and to bring with them such tools to work with on the road as they may direct. And if any free person so summoned shall fail to attend or send a substitute to work in his place, or if any slave so summoned shall fail to attend accordingly, or when attending shall neglect or refuse to do and perform his or their duty therein, he or they shall forfeit and pay a fine of one dollar per day for every such failure, non-attendance or refusal ; to be recovered by warrant from any justice of the county, and paid by the sheriff or constable to the overseer ; one moiety thereof for his own use, the other moiety to be expended by him in hiring other hands to work on the said road : *Provided*, That when any fine forfeited under this act shall exceed the sum of twenty dollars, the overseer shall make his return to the next county court of his proper county, which shall take cognizance thereof, and shall order the same to be collected and applied as other forfeitures under this act.

SECT. X. It shall be the duty of the overseer of the road to make a list of all free persons and slaves, by him summoned to work on the road, and to note thereon specially, the names of such free persons ; and also the names of such slaves as may fail to attend ; together with the names of the owners, or overseers of such slave or slaves as may fail to attend and perform their duty ; and within three days of such failure, or non-attendance, deliver a copy thereof, signed with his own hand, to the nearest justice of the peace : whose duty it shall be, and he is hereby required to issue his warrant or warrants against such free persons, and also against the owners or overseers of such slaves, for the fine or fines incurred by this act, for such failure or non-attendance : *Provided*, That no warrant shall issue within eight days after such failure or non-attendance shall have happened : *And provided also*, That if any free person, who shall be so returned for non-attendance, or the owners or overseers of such slave or slaves as shall be so returned, shall within the aforesaid term of eight days, in person, or otherwise, shew good cause to the satisfaction of such justice of the peace, for such failure or non-attendance ; then, and in every such case, a warrant shall not issue.

Sect. XI. It shall be the duty of such justice to make due return of such list or lists of delinquents, and of the warrants by him issued thereon, to the next county court, to be held for his county for their information; and to enable them to enquire as to the collection and due application of the fines so incurred and collected.

6. Sect. XII. Any person refusing to serve on any road as an overseer, agreeable to the order of the justices of the county court for the county in which he resides, shall forfeit and pay the sum of forty dollars; recoverable with costs of suit before any court having jurisdiction of the same. And the said person shall notify the clerk of his proper county, of his acceptance or refusal to act within fifteen days after he receives his appointment to the said office; under the penalty of ten dollars; to be recovered with costs of suit, before a justice of the peace in the county where the offence was committed: and to be collected and applied as other forfeitures under this act; and the clerk upon receiving such notice, shall report the same, to two justices of the peace of the neighbourhood where such overseer resided; who are hereby authorised and required to appoint a successor, to serve for the residue of the term: and such new overseer so appointed, shall be subject to the same penalties and forfeitures as the overseers appointed by the county courts; and the fines shall be recovered and applied in the same manner as is directed in the preceding part of this act. *Provided*, That no person shall be compelled to serve as an overseer of a road in any county more than one year in three.

Sect. XIII. The clerk of every county court, shall within ten days after the appointment of any overseer of a road deliver a copy of the order to the sheriff of the county under the penalty of five dollars. And the sheriff within ten days after the receipt of such order, shall deliver the same to the overseer, under the penalty of five dollars. And each clerk shall moreover, once in every year, fix up in his court house, a list of the names and precincts of all the overseers of roads in his county, under the penalty of ten dollars, for every neglect.

7. Sect. XIV. It shall and may be lawful for any overseer, if required by a majority of the workmen on the road assigned him, to lay off such road in equal apartments, for the ease of the labourers; who shall finish his or their parts within the time agreed on between him, and each free person, master, mistress, or overseer; and in default of any agreeing party, the overseer is hereby authorised to cause such part to be finished by hire of other persons to do the same, and thereon to tender his account, and demand payment; and on refusal, to warrant for the same and recover the money for his own use: *Provided*, The time agreed on shall not exceed ten days.

8. Sect. XV. If any person or persons whatsoever, shall erect, or cause to be erected across any public road, any bar or impediment, he shall be liable to pay to any person who may sue for the same, the

sum of two dollars; to be recovered before any justice of the peace, to the use of the person who may sue for the same. *Provided always*, that no gate, or any toll bridge shall be considered as liable to the fine hereby imposed; and no person shall turn, alter or change any public road, unless it be by order of the court of the county; founded upon the report of a jury, appointed and sworn as in the case of laying out new roads, under the penalty of ten dollars for each month such road is turned out of the old course, without an order of court; to be recovered on a warrant, before any justice of the peace, by any person suing for the same: and that the old road shall in no case be shut up, until the overseer shall certify to the court, the new and opened road is in good and sufficient repair.

9. Sect. XVI. All overseers of roads, who shall refuse or neglect to do their duty, as is by this act directed; or who shall not keep the roads and bridges clear and in good repair; or let them remain uncleared or out of repair, for and during the space of fifteen days; unless hindered by extreme bad weather, or other sufficient causes, to be adjudged of by the justice, such overseer shall forfeit, for each and every such offence, the sum of five dollars, over and above such damage as may be sustained; to be recovered by a warrant from any justice of the peace, by any person taking out the same; and to be applied to his own use.

10. Sect. XVII. If any person shall fall a tree or brush, into any public road; and shall not remove and clear away the same within twenty-four hours; or shall kill or gird a tree within the distance of fifty feet of the out edge of any public road; and shall not remove and clear away the same within twenty-four hours; or shall kill or gird a tree within the distance of fifty feet of the out edge of any public road, except within an inclosure, it shall be deemed a nuisance. And every free man of full age, so offending, or the parent, master, or owner of every child, apprentice, servant, or slave, so offending, with his or her knowledge, shall forfeit and pay one dollar for every such offence: and where any fence shall be made across any public road, the owner or tenant of the land shall pay two dollars for every twenty-four hours the same shall be continued.

11. Sect. XVIII. From and after the passing of this act, the court of each and every county in this territory, shall have full power and authority, and they are hereby directed and required to compel all persons that now are, or hereafter shall be authorised to keep a public ferry; or who shall own a bridge, receiving toll within the said counties, to give good and sufficient security, in the sum of five hundred dollars; payable to the said court, and their successors; with condition, that he or they shall and will constantly find, provide, and keep good, sufficient boats, or other proper crafts; and keep such bridges in good repair: also the banks on each side of the water courses, as the case may be; and always to be well attended, for travellers or

other persons, to carry or pass their horses, carriages and effects, over any river or creek, or over any such toll bridge. And if any person shall receive damages by any ferryman or keeper of a toll-bridge, not having complied with the condition of his bond, the person receiving such damages, may bring an action of debt against such ferryman or bridge-keeper, on such bond, in the name of the court of the proper county; and recover for non-performance of the said condition, so much damages as he, she or they shall appear to have sustained; and thereupon take out execution for whatever shall be so recovered, and apply the same to his, her or their own use. And it shall and may be lawful for any person detained at any public ferry, by reason of the ferryman's not having sufficient boats, or other proper crafts, and hands, or by neglecting to do his duty, by a warrant from a justice of the peace, to recover of such ferryman the sum of ten dollars, for every default or neglect: *Provided*, That any such recovery shall not be deemed to bar any action for personal damages sustained by any person or persons, by reason of insufficiency of the said ferries and boats thereat, and bridges.

ACT of December 29, 1805. (Dig. p. 396.)

12. Sect. I. George W. Humphries, William Lindsey, Thomas white, Ezekiel Flowers and Waterman Crane be, and they are hereby appointed commissioners; and they, or a majority of them, shall have full power to direct and superintend the application of such quantity of labour as may, from time to time, be allowed by law in opening and clearing the river named Bayou-Pierre; with power to do or perform whatever by this act they shall be authorised and required to do.

Sect. II. Each and every person subject by law to perform labour on the roads and highways, and living within five miles on either side of the said river, from the mouth thereof to the distance of five miles above the Grindstone Ford on the north fork, and five miles above A. Hunt's plantation on the south fork thereof, shall, in addition to the six days labour in each year, which by law they are now liable to perform on the highways, be subject and liable to perform six days labour in each year, for the purpose aforesaid; and be subject and liable to be called on by the aforesaid commissioners, or a majority of them, in the same manner and under the same penalties as they may now by law be called on by the overseers of the highways.

Sect. III. The court of the county of Claiborne shall have power at their discretion to direct and order that any portion of the labour now liable to be performed on the highways, within the aforesaid limits, may and shall be applied towards the purpose of clearing the said river Bayou-Pierre, and under the superintendance of the commissioners aforesaid; and in the same manner as herein before directed. *Provided*, The same shall not exceed the one half of the whole number of days' labour such inhabitants are by law now liable to perform;

and it shall be their duty, and they are hereby required, as often as they may make any order to this effect, to certify the same to the aforesaid commissioners, who are hereby authorised and required to call for and compel the doing and performing such labour in the same manner as overseers of the highways may or can now do.

ACT of March 1, 1808. (Stat. p. 11.)

13. Sect. I. If any bridge or causeway in any public road be at any time so damaged by high waters or otherwise as to render it dangerous for travellers to go over the same, it shall be the duty of the overseer of highways for the district in which such bridge or causeway may be situated to order out the working hands allotted to his district or so many of them as may be necessary to repair the same immediately, even although they shall have previously worked six days on the public highways. And if any overseer shall neglect so to do, it shall be lawful for any inhabitant of the county, after five days notice to such overseer, personally, or having left the same in writing at his usual place of abode, to hire proper and sufficient workmen to repair such bridge or causeway, and all reasonable charges for such repairs shall be paid by such overseer to the person employing such workmen, with ten per centum for his trouble, to be recovered, if under twenty dollars, before any justice of the peace, or if above it, any court of competent jurisdiction.

14. Sect. II. When it shall appear to the county court, that any bridge or bridges across any creek or river in said county cannot be kept in repair by any particular portion of the citizens, without being too burthensome to them, it shall be the duty of the said courts and they are hereby required to contract for the building and keeping in repair any such bridge or bridges, and shall advertise the same at least forty days previous to making such contract, which shall be with the lowest bidder, he or they giving bond and security for the true performance of the contract; and the said county court are hereby authorised to draw their warrant on the territorial treasurer for the amount: *Provided*, The same shall not exceed one tenth part of the revenue of said county, for any one county: *And provided further*, That the sum drawn for, shall be paid out of the money set apart in the treasury for county purposes.

15. Sect. III. The county courts of the respective counties in this territory are hereby authorised whenever in their opinion it may be deemed necessary and proper to open any navigable stream in the said county, to contract with one or more persons for opening the same by giving at least forty days notice at the court-house of said county previous to making such contract, which shall in every case be let to the lowest bidder for the same.

Sect. IV. It shall be the duty of the said county courts to take bond and security of the person or persons with whom they may contract for the opening any navigable stream as may be contemplated by the preceding section and upon the fulfilment and execution of the said contract, they are hereby authorised to draw on the territorial treasury in favor of the person or persons with whom they have contracted as aforesaid for any sum not exceeding one tenth part of the revenue of said county: *And provided*, the sum shall be paid out of money, set apart in the treasury for county purposes.

ACT of December 5, 1809. (Stat. p. 31.)

16. SECT. I. John Hanes, Benjamin S. Smoot and James Caller be, and they are hereby appointed commissioners to employ a fit person to open a road from Pearl river, where the present Choctaw boundary line crosses the same, the nearest and best way to the Chickesawhay river, so as to intersect the same at, or near the lower end of the Higawana Reserve, and they are hereby empowered to contract with said person, for the payment of such sum as may appear reasonable, for the performance of said work, to be paid out of the territorial treasury, after the fulfilment of said contract: *Provided, nevertheless*, That the sum to be expended for making and opening said road, shall not exceed three hundred dollars.

SECT. II. The said road when open shall be deemed and taken as a public highway, until the same shall be changed, or altered, by competent authority.

ACT of December 7, 1809. (Stat. p. 35.)

17. SECT. I. The river Bayou Pierre from Port Gibson on the south fork, and from the Grindstone ford on the north fork, of the said river, to the mouth thereof, also the river Big Black, from the Red Bluff to the mouth of said river, are hereby declared to be navigable streams, and whosoever shall fall timber into said streams, or cause any trees to be cut and thrown therein, or shall in any wise, by any manner whatever, obstruct the free navigation of said rivers, every person or persons so injuring the navigation of said stream or streams, shall forfeit and pay the sum of one hundred dollars, to be recovered by action of debt in any court of record, having jurisdiction thereof, one half to the use of the party suing for the same, and the othor half to the use of the county.

ACT of December 20, 1809. (Stat. p. 70.)

18. SECT. I. It shall be the duty of the judges of the respective circuit or superior courts of this territory, to give in charge to the grand juries of the different counties at the opening of each term of the said courts, the act entitled, "an act to reduce into one, the several acts concerning public roads, highways, ferries and bridges," and the act supplementary thereto; and the said grand jury shall present

the overseer or overseers of every public road which shall not, or may not have been kept in repair as required by law, and every person or persons who may have altered any public road, without having obtained an order of court therefor as directed by statute in such case made and provided ; and also all other persons who may have neglected to comply with, or who may have violated the act entitled "an act to reduce into one the several acts concerning public roads, highways, ferries and bridges within this territory." And it shall be the duty of the judges of the said circuit or superior courts upon such presentment being made by the grand jury, to cause the said person or persons so presented to be summoned to appear before the said court, there to be tried by a petit jury without any indictment being filed, and if found to be guilty of neglect or non-compliance complained of, in said presentment, the court shall, and they are hereby vested with power and authority to fine every such person or persons, in any sum not exceeding one hundred dollars, with costs.

SECT. II. It shall be the duty of the clerks of the several county courts to furnish the circuit or superior courts on the first day of each term thereof, with a list of the names of all the overseers of the roads within their county, together with the name and boundary of the district for which they may severally be appointed, and every clerk neglecting so to do shall be fined by the said court in any sum not exceeding fifty dollars, which list shall by the said courts be handed to the foreman of the grand jury, for their information, when they shall give in charge to them the act entitled "an act concerning public roads, highways, bridges and ferries."

19. SECT. III. The toll of any ferry that may or shall be kept at any place where a public road leads to the same, shall at all times be subject to the regulation and control of the county court of the county in which the same may be kept ; and every keeper of such ferry, who may or shall presume to charge or demand more than what the said county court may have allowed, shall forfeit and pay for every such offence the sum of ten dollars, to be recovered before any justice of the peace of said county, by any person or persons suing for the same,

SECT. IV. If the owner or owners of the soil where any public ferry now is, or may be hereafter established, shall refuse or neglect until the expiration of the next regular term of the county court of their county from and after the passing of this act, or from and after the establishment of said ferry, to give bond and security, according to the provisions of the 17th section of an act entitled "an act to amend and reduce into one the several acts concerning public roads, highways, ferries and bridges within this territory," passed the first of March, 1805, that then and in that case it shall be lawful for the county court of said county and they are hereby authorised and required to let out the keeping of the said ferry or ferries to any person or persons who will engage to keep the same for the tolls and rates fixed by the county court aforesaid ; the person or persons so engaging to keep the said ferry or ferries, to give bond and security according to law in such case made and provided.

20. Sect. V. In all cases where county courts shall be about to let out the keeping of any public ferry, they shall first give the refusal thereof, at the end of every two years, to the owner of the soil at which the said ferry is established, and if he or they so owning the soil as aforesaid, shall and will give bond and security as required by law for the keeping good and sufficient boats for the passing over of all travellers and other persons crossing at the same, then and in that case the said ferry shall in all cases be let out to the owner or owners of the soil as aforesaid ; but if the owner or owners of the soil at which said ferry is established, shall refuse to take the same as directed by law, then the court shall and may have power to let out the keeping of the same to such other person or persons as they may think proper.

21. Sect. VI. Each and every fine or fines accruing or arising under this act shall be paid over to the county treasurer of the county in which the same may be collected, to be appropriated by the county court in repairing or building such causeways or bridges in the said counties as they may think proper.

22. Sect. VII. The report of a majority of the jurors appointed by the county court for laying off any public road shall be legal, and considered as the act of the whole, any law to the contrary notwithstanding.

ACT of December 21, 1809. (Stat. p. 79.)

23. Sect. I. Abijah Hunt, Timothy Terrell, Joseph Forman, of Natchez, Abner Green, Ferdinand L. Claiborne and Cowles Mead, in Adams county, William R. Richards, Thomas Waggoner, David Nelson and James Lea, in Amite county, be, and they are hereby appointed commissioners to receive subscriptions of shares, to compose the stock of a Turnpike Company, for the purpose of making a turnpike road from the east bank of Homochitto, at or near Lang's ferry and the adjoining swamp, to the high lands at or near James Erwin's.

Sect. II. The capital stock of said company, shall consist of two thousand dollars, and be divided into eighty shares, of fifty dollars each and that on subscribing said shares an advance of ten dollars shall be required by said commissioners, on each share, which subscription shall remain open for three months, from and after the time of subscribing the same ; and so soon thereafter as the full complement of shares shall be subscribed, the commissioners shall give notice to the stockholders, appointing time and place for a general meeting, and when met, they shall proceed to choose from their own body, a president and five directors, who shall be one body politic and corporate, in fact and name, by the style and title of the Homochitto Turnpike Company, and by the same shall have perpetual succession, and they and their successors, shall at all times hereafter by the same style and title of "the Homochitto Turnpike Company," be persons able and liable in law, to sue and be sued, plead and be impleaded, in any court of justice whatever, and to make, and use one common seal, and the same to alter and renew at pleasure.

Sect. III. The president and directors of the aforesaid company shall have power, and they are hereby authorised to lay out a road, thirty feet wide from the east bank of the Homochitto, at or near Lang's ferry in Wilkinson county, crossing said river, and the adjoining swamp to the highlands near James Erwin's, in Adams county, with the privilege of cutting and using any timber wanted for the said Turnpike road; and also any earth within twenty feet of the road aforesaid: and in case the president and directors, or their agent cannot agree, with the owner or owners of such timber or earth, then it shall be lawful for the sheriff of the county where the timber or earth so wanted may be, to summon a jury of seven men to value the same, and the value so ascertained and tendered in payment to the owner thereof, shall be a sufficient authority for said company to remove such timber or earth at pleasure.

Sect. IV. The presidents and directors shall have full power and authority from time to time, and at all times hereafter, to notify and require payment of the stockholders of such proportion of the money due on each share, as they may deem necessary, and in default of such payment, they are hereby authorised to advertise and sell at auction all such delinquent shares, and in case of such sale, all monies previously paid on any share so sold, shall be forfeited to the company.

24. Sect. V. The stockholders hereby incorporated shall hold, possess and enjoy all the rights, privileges and immunities appertaining to the said corporation for, and during the term of twelve years, and that as soon as the said road shall be completed and in good condition for the passage of travellers, carts, waggons and wheel-carriages of every description, it shall be lawful for the said company to receive the following toll, to wit: For each foot passenger twelve and an half cents; for man and horse, twenty-five cents; for each cart or waggon per wheel, twenty-five cents; for each pleasurable carriage, twenty-five cents per wheel; for each horse, mule, ass or head of neat cattle, twelve and an half cents; for each head of sheep, hogs or goats, three cents.

25. Sect. VI. There shall be a general meeting of the stockholders; first at Lang's ferry, and afterwards at such place as they may appoint, on the first of April in each year when they shall elect by ballot and a majority of votes, a president and five directors to serve for one year, and provide such rules, and regulations as they may deem

necessary for the good government of the company, which they shall have power from time to time, and at all times, to alter or amend as to them shall appear expedient; and said president and directors shall meet twice in every year at such place as they may appoint; and the president with the advice of three directors, shall have power to call extraordinary meetings, by publishing the same in some newspaper in this territory, and to hold such intermediate meetings, on their own adjournments, as they may think necessary for the interest of the company.

Sect. VII. Each share holder shall be eligible as a director, and be entitled to vote in the following manner, to wit: each person holding two shares shall have two votes; four shares three votes; eight shares, four votes; fifteen shares five votes; twenty-five shares six votes; forty shares seven votes, which shall be the highest vote given by any one share holder; and that if any share-holder shall find it inconvenient to attend any meeting of the stockholders, it shall be lawful for him, by note in writing, to constitute any share-holder his proxy, who is hereby authorised to vote for such absent share-holder; and in case the stock shall be oversubscribed, the greatest number of shares held by any stockholder shall be reduced, if necessary down to one share, so as to give a share to each subscriber who may have subscribed after the subscription has been filled; and in case of an equal numbec of shares being held by two or more subscribers; and it should not be necessary to reduce the whole of them, then, and in such case, the same shall be determined by lot; and the said president and directors shall at their annnual and semi annual meetings examine the funds of the company, and declare such dividend on each share as they may think proper.

26. Sect. VIII. If the said company shall fail to keep the said road in good condition, according to the provisions of this act or in any wise impede the passage of the above enumerated subjects, liable to pay toll; they shall forfeit and pay to the party aggrieved, double the toll so chargeable for every hour the same may be impeded or detained, for twelve hours; and if the said turnpike road shall at any one time remain out of repair during six months, said company shall forfeit to the territory all the rights, privileges and immunities, granted by this act.

27. Sect. IX. The legislature shall at all times after the expiration of ten years, have power to alter or amend this act as to them shall appear expedient.

ACT of November 27, 1810. (Stat. p. 7.)

28. Sect. I. The clearing and opening of all streams which have been declared by law to be navigable, or which may by any county court, within this territory be declared navigable, shall be placed under

the control of the county court of the county through which the same may pass, and the said county courts are hereby vested with power, at their discretion, to appoint overseers to clear out the same, and apportion the hands to work thereon, in the same manner, and under the same regulations in every respect, that overseers and hands appointed to work on public roads are placed by law.

ACT of December 3, 1810. (Stat. p. 17.)

29. Sect. I. The stockholders incorporated by the above recited act shall and they are hereby authorised to demand and receive the following toll, to wit: for man and horse, twelve and a half cents; for each cart or waggon, twelve and a half cents per wheel; for each pleasurable carriage, twelve and a half cents per wheel; for each horse, mule, ass or head of neat cattle, six and one quarter cents, and for each head of sheep, hogs or goats, two cents.

Sect. II. The powers, privileges and immunities given by said act, shall be held, enjoyed and possessed by the said stockholders for and during the term of twenty-four years.

Sect. III. So much of the said act as comes within the purview of this act, be, and the same is hereby repealed.

ACT of November 25, 1811. (Stat. p. 4.)

30. Sect. I. From and after the passing of this act, all ministers of the Gospel, legally licensed, shall be exempted from working on roads or serving as jurors.

ACT of December 18, 1811. (Stat. p. 94.)

31. Sect. XXXI. The old road leading by or near St. Albans to the Walnut Hills, as laid out by the Spanish government, be, and the same is hereby declared a public road, and shall be used and worked upon accordingly, until altered by order of court, or as herein after directed.

ACT of December 12, 1812. (Stat. p. 22.)

32. Sect. I. The following rates and tolls for ferriages across the river Homochitto, where any public road may cross the same, shall, from and after the passage of this act, be established, to wit: For every wheel carriage, twelve and one half cents per wheel; for every man and horse, twelve and one half cents; for every foot passenger, six and one quarter cents; for each and every head of horses or horned cattle, more than one, four cents, if but one six and one quarter cents; and for each and every head of hogs, sheep, &c. the sum of two cents.

Sect. II. The same penalties shall be and are hereby imposed on persons who may charge more than the above tolls, and recovered in the same manner as if said tolls had been established by the county courts.

ACT of December 18, 1812. (Stat. p. 49.)

33. SECT. I. Jordan Morgan, William Hunt, John Burnett, Simon Favre, Joseph Ford, and John M'Gaffie be, and they are hereby appointed commissioners, who, or a majority of them, shall have full power to direct and superintend the opening and clearing of the river Pearl, and they are hereby declared to have full powers to do and perform all acts and doings by this act authorised and required.

SECT. II. Every person subject by law to work on public roads, who lives within five miles of the said river Pearl on either side, and within the Mississippi territory, from New Columbia down, may by their county courts respectively, be made subject to work six days in each and every year, under the direction of the aforesaid commissioners, in opening or clearing the river aforesaid, but shall be exempted from working on any road, and every person living within five miles of the river aforesaid, made subject to work on the same by this act, shall incur the same fine, to be recovered in the same manner by the commissioners as persons subject to work on roads failing therein are subject to, and to be applied when collected, to the purpose of opening and clearing the said river Pearl.

SECT. III. *Repealed December* 23, 1815.

ACT of January 6, 1814. (Stat. p. 4.)

34. SECT. I. Harry Toulmin, Burrel Pitman, Eugena Chastang, James Taylor, Lewis Blackman, William Patton, George Evans and William Powe shall be, and they are hereby appointed commissioners to lay out and establish a road from the town of Mobile to M'Cray's ferry on the Buckitanny.

SECT. II. The said commissioners, or a majority of them, having ascertained and marked the best way for the said road, shall notify the county courts of the counties of Mobile, Greene and Wayne of the same; whereupon it shall be the duty of the said county courts respectively, to appoint overseers, and assign hands for the purpose of opening so much of the said road as may be allotted to their respective counties, by the said commissioners, without regard to the county lines.

SECT. III. If any county court shall neglect to have their portion of such road opened, within nine months after such notification, it shall be lawful for the said commissioners to hire persons to do the same, and the expense thereof shall, on their order, be paid out of the treasury of the county, thus failing to perform the duties prescribed by this act.

SECT. IV. If it should be found necessary to erect a bridge over the Oasecautapa, otherwise called Dog river, it shall be lawful for the said commissioners to contract with some person to erect the same, and the expense thereof shall, on their order, be paid by the counties of Mobile, Green and Wayne, in proportion to the amount of territorial taxes paid in the respective counties.

ACT of December 1, 1814 (Stat. p 7.)

35. SECT. VII. It shall not be lawful for any master of a vessel or other person to obstruct, or cause to be obstructed, any of the channels or passes in any of the navigable bays, rivers or creeks in this territory, by throwing or putting, or causing to be thrown or put, any ballast, tree, or other impediments, into the said channels or passes, or in any other manner whatever obstruct the free navigation thereof; and the person or persons so offending, shall be fined in a sum not less than fifty dollars, nor more than two hundred, to be assessed by a jury.

SECT. II. It shall be the duty of any justice of the peace, or of the quorum, upon his own knowledge, or upon proper information, to issue his warrant to apprehend any person so offending, and upon his appearance to bind him in a sufficient recognizance to appear at the next superior court to be holden for the county in which the offence may have been committed, to answer an indictment to be preferred against him. It shall moreover be the duty of the grand jury to take notice of offences arising under this act.

ACT of December 23, 1815. (Stat. p. 65.)

36. SECT. I. Charles Stovall, William Lott, Harmon Runnels, Jordan Morgan, John Ford, John M'Giffie and Dugal M'Laughlan be, and they are hereby appointed commissioners, who, or a majority of them, shall have full power to direct and superintend the opening and clearing the river Pearl, and they are hereby declared to have full power to do and perform all acts and doings by this act authorised and required.

SECT. II. Every person subject by law to work on public roads, who lives within five miles of the said river Pearl on either side within the Mississippi territory, from New Columbia down, may, by the commissioners aforesaid, be made subject under their direction to work six days in each and every year in opening and clearing the river Pearl, and every person living within five miles of the river aforesaid, made subject to work on the same by this act, shall incur the same fine, to be recovered in the same manner by the commissioners, as persons subject to work on roads failing therein are subject to, and to be applied, when collected, to the purpose of opening and clearing the said river Pearl.

SECT. III. The said commissioners, or a majority of them, are hereby authorised to raise by way of lottery the sum of two thousand dollars for the purpose of improving the navigation of the said river, on such scheme as they may deem most expedient; which sum shall be applied to the purpose aforesaid, in such manner as the said commissioners may deem most advisable, or as the said commissioners or a majority of them may adopt.

SECT. IV. The third section of the act to which this is an amendment, and every other part of the said act coming within the purview and meaning of this act, be, and the same are hereby repealed.

ACT of December 27, 1815. (Stat. p. 84.)

37. SECT. I. Hereafter, it shall be the duty of any justice of the peace or of the quorum, upon information being given that any overseer of a road has neglected to perform his duty agreeably to law, to issue his warrant against such defaulting overseer; and on due proof thereof, to enter up judgment and award execution against such overseer for the sum of ten dollars for each neglect, to be paid by the justice collecting the same into the county treasury of the proper county, to be applied by the county court in repairing the road in the district where the default has been made: *Provided*, That nothing herein contained shall take away the jurisdiction already given to the superior courts for similar offences.

38. SECT. II. It shall be the duty of every overseer of the road, immediately after his appointment, to demand a list on oath (which oath said overseer is hereby authorised to administer) from every person within his district, of all the hands he may have liable to work on roads; which demand shall be made personally, or in writing left at the usual place of abode of the person applied to; a copy of which list the said overseer is hereby required to return to the county court at the next succeeding term; and if any person shall refuse or neglect for the space of ten days to deliver a list thus required, to said overseer, such person so refusing or neglecting shall forfeit and pay the sum of six dollars for each hand liable to work, so refused or neglected to be given in or returned; which sum or sums may be recovered before any justice of the quorum or justice of the peace, or court of record having jurisdiction thereof, to be applied by such overseer to the repair of the road within his district.

HUNTING.

By fire at night prohibited . 1
Killing cattle, &c. when fire hunting, fineable 2
Slaves, fire hunting how punishable 3
Their masters also liable . . ib.
Persons refusing to give evidence, to be committed . . 4
Provisions of this act not to affect the provisions of act for punishment of crimes . . . 5
Captains of militia companies to cause this act to be read to them twice a year . . . 6

ACT of February 10, 1803. (Dig. p. 365.)

1. Sect. I. It shall not be lawful for any person or persons to hunt with fire, in the night time, within four miles of any settlement in this territory : and every person convicted thereof, before any two justices of the peace, of the county wherein the offence was committed, by the oath of one or more credible witnesses, shall forfeit and pay for every such offence twenty dollars ; to be recovered with costs, by warrant of the justices, before whom the conviction shall be had ; for the use of the person who shall sue for the same. And in case any person or persons, so convicted, shall refuse or neglect to pay such fine, then it shall be the duty of the justices, before whom he or they shall have been convicted, to commit such person or persons to the jail of the county where the crime shall have been committed ; there to remain without bail or mainprize, any term, not less than one, not more than three months,

2. Sect. II. If any person hunting with fire in the night time, shall kill any horse, mare, colt, neat cattle, hog, sheep, or other domestic animal, not being his own : the person or persons so offending, shall be liable to an action at law for double damages, to the person aggrieved, in addition to the above penalties.

3. Sect. III. If any slave or slaves shall be discovered fire-hunting in manner aforesaid ; such slave or slaves, on conviction thereof, in manner aforesaid ; before any one justice of the peace, for the county wherein the offence may be committed, shall by order of the said justice, receive thirty lashes, well laid on his bare back. And the master or owner of the said slave, or the person in whose care he shall be, shall forfeit and pay the sum of ten dollars for each slave so convicted: to be levied by a warrant ; immediately to be issued by such justice for the purpose.

Sect. IV. If any person convicted before two justices of the peace, in manner aforesaid, of sending or having sent, his or her slave, or any slave in their charge or care, to fire-hunt, in manner before mentioned; the person or persons so offending, shall be subject to the same pains, as are provided by this act, to be inflicted on fire-hunters; but the slave so sent shall receive no punishment.

4. Sect. V. If any person summoned to give evidence against any person accused under this act, shall refuse or neglect to give such evidence, the person so refusing or neglecting, shall be committed to the jail of the county where the offence shall be committed, until he or they shall give testimony against the said offender.

5. Sect. VI. Nothing contained in this act shall be construed to affect any provisions contained in the act, entitled "An act for the punishment of crimes therein mentioned:" passed 30th January, 1802.

6. Sect. VII. The captains of the several companies of militia in this territory shall cause this act to be read at the head of their respective companies, twice in every year, after the publication thereof, under the penalty of forfeiting to the use of the county, for every such neglect, five dollars, recoverable by warrant of any justice of the peace, on the oath of two reputable witnesses.

JACKSONIAN LIBRARY.

Incorporated, and Powers 1

ACT of December 23, 1815. (Stat. p. 73.)

1. Sect. IV. A library society be and is hereby established and incorporated at the town of Woodville in Wilkinson county to be known by the name and style of the Jacksonian Library Society, and made capable of receiving subscriptions and donations for the benefit of the society, of suing and being sued, doing and performing all other acts, and shall possess all other powers incident to bodies corporate, and that so soon as there are nine members belonging to said society, they or a majority of them shall have power to appoint their president, and other officers, to elect new members, to form such constitution and make such by-laws for the regulation of their own body as they may think proper.

JEFFERSON COLLEGE.

Incorporated 1
Trustees to meet, appoint officers, &c. 2
Their powers, &c. . . . . ib.
Vacancies how filled . . . ib.
Lottery allowed them . . 3
President, professors, &c. exempt from Militia duty . . . 4
Property exempt from taxation . . 5
Site established near Washington 6
A quorum of the Trustees, have full powers 7
Number of Trustees not to exceed 40 8
To establish stated meetings . 9

ACT of May 3, 1802, and March 4, 1803, revised and amended February 10, 1807. (Dig. p. 411.)

1. SECT. I. There shall be established in this territory, a College, which shall bear the name of JEFFERSON COLLEGE, in honor of Thomas Jefferson, President of the United States, and President of the American Philosophical Society.

2. SECT. II. The following persons, to wit:—William C. C. Claiborne, Anthony Hutchins, William Dunbar, of Second creek, Benjamin Farar, William Vousden, John Ellis, David Ker, Adam Bingaman, David Lattimore, Bernard Lintot, Cato West, John Girault, Thomas M. Green, Samuel Gibson, Daniel Burnet, Felix Hughes, Alexander Montgomery, Drury W. Brazeale, Thomas Calvit, James Caller, Nathaniel Christmas, John Steele, Abner Green, Sutton Banks, Abram Ellis, Richard Butler, Robert Dunbar, John MacGrew, Jacob Stampley, Joseph Pannill, Isaac Guilliard, John Bisland, Abraham Green and James Hoggatt, shall be a body corporate, by the name of "The Trustees of Jefferson College;" and by that name shall be capable in law to receive all donations, and recover all debts which may become the property of the said college; and may in general do all acts for the benefit of the institution which are incident to bodies corporate.

SECT. III. The first meeting of the trustees shall be held on the first Monday in January next, at the town of Washington; where they shall proceed to choose, out of their own body, a president and vice-president. The president, or in his absence the vice-president, shall have power to call extraordinary meetings of the trustees, by giving ten days notice to each member, before such meeting shall be held.—The ordinary meetings of the board shall be held on their own adjournments. Thirteen members shall constitute a quorum to do business at the first meeting, but at all subsequent meetings, seven may constitute a quorum to proceed to business. The president, or in his absence from the meeting the vice-president, shall preside: or in case of the absence of both, any member chosen by a majority of the members present, shall preside.

Whereas it is necessary, that on extraordinary occasions, the board of trustees of Jefferson College should be called together at a short notice; and whereas, the mode provided for that purpose would often be attended with great delay; therefore, *Be it enacted*, That the president of the board of trustees of Jefferson College, or in his absence from the territory the vice-president, shall have authority to call a meeting of the said trustees at any time; provided notice shall be given of such intended meeting, by advertising the same in one of the newspapers of this territory, twelve days before the said meeting shall be held.

SECT. IV. The board of trustees shall have power, and it shall be their duty, with all convenient speed, to fix on some healthy and central situation, whereat to establish the college, and to contract for the erecting of the necessary buildings. They shall also have power to engage a president, and other professors; a treasurer, and all necessary officers for conducting the civil and literary concerns of the college; and to displace and supercede them at pleasure. They also shall have authority, and it shall be their duty to examine the proficiency of the students, and to confer the degrees of bachelor and master of arts; to make all laws and regulations which they shall judge necessary for the good government of the college, and for promoting morality and virtue among the students. They shall take effectual care, that students of all denominations, may, and shall be admitted to the equal advantages of a liberal education, and to the emoluments and honors of the college; and that they shall receive a like fair and generous treatment, during their residence thereat.

SECT. V. In case of death, removal from the territory, resignation or refusal to act, of any of the trustees, the board may, at any of their meetings, appoint a successor.

3. SECT. VI. As Jefferson College must for the present be supported by the voluntary contributions of the citizens, the board of trustees are authorised to raise, for the benefit of the said college, by a lottery, a sum not exceeding ten thousand dollars. They shall also collect donations from the citizens of the territory, and elsewhere. The names of such donors, with their donations annexed, shall be inscribed in a book kept for that purpose; and shall be preserved among the archives of the college; in order that posterity may know who were the benefactors of the institution.

4. SECT. VII. The president, professors, tutors, and students of the college, shall be exempt from militia duty during their continuance as members of the college, except in a general invasion of the territory.

5. SECT. VIII. The lands, public buildings, and other property belonging to Jefferson College, are hereby declared to be free from every kind of public tax.

ACT of November 11, 1803. (Dig. p. 414.)

6. **Sect. I.** A certain donation of a parcel of land, including a spring commonly called Ellicott's spring, presented by John and James Foster and Randal Gibson, to the board of trustees of Jefferson College, for the use of the said College, and such other adjoining parcel of land, to be procured by the said board, situated in the vicinage of the town of Washington, shall together constitute a lot; within the limits of which shall be erected the buildings of the said college; and which said lot is hereby declared and established to be the permanent site of Jefferson College.

ACT of December 23, 1812. (Stat. p. 110.)

7. **Sect. I.** A quorum of the board of trustees of Jefferson College, named in the second section of the act, to which this is an amendment and such other members of the said board, as have been duly elected, or hereafter may be elected, conformably to the fifth section of said act, to which this is an amendment, and their successors be, and they are hereby declared to be a body corporate, and politic, capable in law to do and perform all acts and things incident to bodies corporate, both in law and equity.

8. **Sect. II.** The board of trustees of Jefferson College, shall at no time exceed forty in number, and the said board shall at their discretion, proceed to elect members to make up that number.

9. **Sect. III.** The trustees of said college shall have power, and they are hereby authorised to establish stated meetings of the said board.

INTEREST AND USURY.

If more than six per cent. per annum is included in any contract no interest can be recovered . . 1
In such case the Usury and Interest may be recovered back by action 2
Six per cent. interest established on bonds and notes, after the same are due and payable 3
Mode of paying and calculating interest 4
Judgments to bear interest . . 5

ACT of March 1, 1805. (Dig. p. 404.)

1. **Sect. I.** No person or persons whatsoever, shall take, directly or indirectly, for the loan of any money, wares, merchandize, or other commodity whatsoever, more than the value of six dollars for the forbearance or giving day of payment of one hundred dollars, for one

year; and after that rate, for a greater or less sum, or for a longer or shorter time. And if it shall be ascertained, on the plea or answer of the defendant in any suit, that more than the rate of six dollars for the forbearance or giving day of payment, of one hundred dollars for one year; and after that rate for a greater or less sum, or for a longer or shorter time, be taken or received, in or by any bond or note whatever, for the payment of any principal or sum of money, goods, wares, merchandize, commodity or thing whatever, bought or sold; no interest or premium whatever, for forbearance, or giving day of payment, shall be allowed or received on such bond or note; but the principal sum only may be recovered.

2. Sect. II. If more than the rate of six dollars for the forbearance or giving day of payment for one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, shall be taken, accepted, or received, by way of any corrupt bargain, loan, exchange, or interest of any money, wares, merchandize, commodities or other things, bought or sold, the same, together with the whole amount of interest taken, accepted or received therewith, may be recovered by any person paying the same, by action of trespass on the case, with costs of suit.

3. Sect. III. The rate of six dollars for the forbearance, or giving day of payment of one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, may be taken, allowed and recovered on all bonds and notes in writing, ascertaining the sum due, after the same is due and payable.

ACT of December 18, 1811. (Stat. p. 92.)

4. Sect. XXV. When partial payments are made on bonds, contracts, or assurances for the payment of money or property, that bear interest, agreeably to the laws of this territory, the interest that has then accrued, shall be first credited, and the balance of such partial payment shall be placed to the payment of the principal.

5. Sect. XXVI. All debts due by the judgment, sentence or decree of any court, shall hereafter bear interest in the same manner as other debts.

See "Justices of the Peace and Constables—No. 13."

INDIAN CREEK.

Waters thereof, penalty for polluting 1
Fines or penalties, how applied 3

ACT of December 16, 1811. (Stat. p. 75.)

1. Sect. I. It shall not hereafter be lawful for any person or persons to contaminate or pollute the water of Indian creek in Madison

county, by casting therein dead animals of any kind, or any filth or polluted matter of any description whatever; and any person or persons who shall be guilty of casting in the said creek any dead animal, or any filth calculated to pollute and render the water thereof impure, shall be subject to a penalty of five dollars for the first offence, to be recovered before any justice of the peace in said county; and for every such offence thereafter, ten dollars, to be recovered in like manner.

2. Sect II. When any fine shall be collected by the authority of the above act, it shall be paid to the county treasurer, and appropriated to the use of said county.

JUSTICES OF THE PEACE

AND

CONSTABLES.

Constables to be paid for care of live stock . . . 1
To sell between ten and fifteen days, and give notice . . . . ib.
Judgment of a justice to bar a second suit . . . 2
Same fees of justices . . ib.
Justices to try and punish slaves for offences not capital . . . 3
To return recognizances first day of court, before court sits . 4
Their jurisdiction in civil suits, process, judgment, trial, costs, and execution 5
Their process and records . . 6
Appeal from their judgment, proceedings thereon . . 7
Subpœnas for witness, and commission to take depositions, to be read before them . . . 8
On appeals, to summon witnesses to court . . . ib.
Attachments, proceedings thereon 9
On foreign attachments, proceedings stayed . . ib.
Perishable property may be sold ib.
Attachment may issue, although debt not due, and perishable property sold on credit, &c. . ib.
Garnishee, summons, examination and judgment . . 10
Privileges of garnishee . . ib.
Doubtful right of property may be tried, proceedings therein . 11
Justice to annex copy of voucher to original process, may examine parties on oath, if debt is under 20 dollars—evidence if over 20 dollars 12
Stay of execution after judgment, bond, execution thereon, judgments to be on interest . 13
Executions and summonses for garnishees to run to any county ib.
After judgment, 5 days before execution, except, &c. . . 14
Bail, bond, how liable, privileges 15
Justices process when returnable 16
Penalty and proceedings against defaulting witness . . ib.
Justices may issue attachments returnable to superior courts 17
Constables to be appointed, their bond and oath and duty . 18
May take forthcoming bonds, proceedings thereon—obligor may surrender property . . 19
Special constable, sheriff or coroner may execute process . 20
Constables, how liable for neglect of duty 21
Justices cognizance of public offences 22
To commit, take and return recognizances . . . ib.

To issue warrants against offenders . ib.
To issue search warrants, but not try right of property; in such case to take bond and return it to court to be tried . . . ib.
To take examination of offenders, information of witnesses, and return same to court . . ib.
Warrant may run to another county; proceedings thereon . ib.
Subpœnas to another county, in criminal cases . . . ib.
May have offenders arrested and conveyed to proper county . ib.
Justices power to fine and imprison for contempts 23
Oath of justice of peace, and of the quorum 24
Penalty for acting without taking oath . . . . . ib.
Justices may act as coroner . 25
——————— as notaries . 26
Fees of justices and constables 27
Papers, &c. of justice who dies, &c. to be tranferred . . . 28
Penalty for pulling down advertisements 29
Justices and constables failing to pay over money, how liable . 30
Repealing section 31

ACT of February 10, 1807. (Dig. p. 225.)

1. Sect. IV.* Where any property shall be taken by a constable by virtue of his office, he may on the person or persons from whom such property may be taken, giving bond with approved security, for the delivery of such property on the day of sale, suffer it to remain in the hands of the debtor—but when such person or persons shall not be able, or shall refuse to give such security in either case, and the property consisting of live stock, the constable shall take care of the same; and an allowance shall be made him out of the sale of such property, to be adjudged of by the justice, to whom such execution is returned; and the constable shall be allowed twenty-five cents for taking such bond; and there shall not be more than fifteen days between the constable's executing and selling any property taken by virtue of an execution; the constable shall give ten days notice, at least, of such sale, by advertising at the most public place or places in the neighbourhood, of the time and place of such sale, where the person or persons may render, from whom such property is taken.

ACT of December 18, 1811. (Stat. p. 110.)

2. Sect. II. Whenever any suit brought before a justice of the peace, has been finally decided on its merits, by such justice, it shall be a bar to a recovery for the same cause of action brought before any other justice of the peace; and all justices of the peace before whom any trial shall have been had as aforesaid, shall on application of either of the parties, or their legal representatives or any other person in his, her or their behalf, grant a transcript of the record of such judgment in favor of such party, which shall be sufficient evidence to bar any recovery before any other justice of the peace as aforesaid, for the same cause of action, and for furnishing a transcript as aforesaid, a

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* So much of this section as relates to the forthcoming bond is repealed December 23, 1809. (Stat. p. 143, § 7.)

justice of the peace shall be entitled to demand and receive 25 cents.
For taxing costs on any execution, 25

ACT of January 15, 1814. (Stat. p. 9.)

3 Sect. I. Any slave may be tried for an offence not capital, by any justice of the peace on warrant, and may be sentenced to receive any number of stripes, not exceeding one hundred, which sentence shall be executed by the constable; Provided however, that no slave shall be sentenced to receive more than thirty-nine lashes, unless two respectable slave holders, to be summoned by the justice, for the purpose of trying said slave, concur with him in the sentence; and any such justice of the peace shall summon, and compel the attendance of all witnesses necessary to establish any fact, for or against such slave, and shall duly examine such witnesses.

ACT of January 22, 1814. (Stat. p. 40.)

4. Sect. III. It shall be the duty of the justices of the peace, to return all recognizances which may be taken by them, to the offices of the clerks of the superior courts of their respective counties, before the sitting of the court, on the first day of the term of said court, under a penalty not exceeding fifty dollars, at the discretion of the court to which the same should have been returned, on motion of the attorney-general; Provided, that the said justice shall have five days notice of such motion, and it shall be the duty of the attornies general respectively, to prefer all indictments within the three first days of the terms of each of the said superior courts.

ACT of December 27, 1814. (Stat. p. 56.)

5. Sect. I. All debts and demands not exceeding fifty dollars for a sum or balance, due on any specialty, note, bond, cotton receipt, contract or agreement in writing, or for goods, wares, and merchandize, sold and delivered, or for work or labor done, or for money lent, or for specific articles, or for any sum or balance due either by written or verbal contract, or assumpsit in any case not sounding in damages merely, are hereby declared to be exclusively cognizable and determinable by a justice of the quorm or of the peace; any such justice is hereby authorised on complaint made to him, to issue his warrant, capias, summons or attachment, as the case may require, returnable at a certain time and place therein mentioned, not less than ten, nor more than thirty days from the time of issuing the same, and on return thereof, proceed to hear and determine the case on the merits, if the parties appear; give judgment by default if the defendant fail to appear and contest the plaintiff's demad; or enter judgment of nonsuit against the plaintiff if he fail to appear and prosecute his claim, and issue execution against the person, or goods and chattels of the party against whom judgment is so entered, for the debt and costs, or costs

alone, as the case may require, returnable at a certain time and place, therein mentioned, not less than twenty, nor more than thirty days from the time of issuing the same, but such justice may by consent of parties or on good cause shewn by oath or affidavit, adjourn the trial of any cause to any time not exceeding ten days.

6. Sect. II. All warrants or other precepts issued by any justice of the peace or of the quorum, shall be under the hand and seal of such justice, and shall be directed to the officer whose duty it is to execute the same ; and the justices shall cause fair entries to be made in books to be by them provided for that purpose, of the names of the plaintiff and defendant in any suit brought before them, with the debt and costs adjudged, and the time when the warrant issued, was made returnable, and when judgment was given, together with the return made upon all such process.

7. Sect. III. Any person aggrieved by the judgment of any justice of the quorum or of the peace, may within five days thereafter, appeal to the next superior court sitting for his county ; and in all cases where the sum does not exceed twenty dollars, the trial shall be by the court without the intervention of a jury, and in cases where the sum claimed exceeds twenty dollars, the said court shall try such appeal *de novo*, as any other cause in said courts is tried at the first term on an issue to be made up at or before the trial : and it shall be the duty of the justice of the peace or of the quorum, trying such cause, to send up to the clerk of the superior court of his county, a statement of the case, with all the papers and the bond thereunto belonging, before the sitting of said superior court.

8. Sect. IV. The justice before whom any cause is depending, shall issue all subpœnas for witnesses who reside within his county, which the parties or either of them require, and in case any witness reside without the limits of his county, such justice may on satisfactory evidence shewn him that sufficient and reasonable notice has been given to the adverse party, of the time and place of taking his or her deposition, issue a commission to some justice of the peace or of the quorum, where such witness resides, to take his or her deposition, which deposition so taken and returned under the hand and seal of such justice, shall be read in evidence ; and the justice from whose judgment any appeal is taken, shall issue all subpœnas for witnesses, which either of the parties may require, returnable to the next superior court after such appeal is taken.

9. Sect. V. When the process shall be required to be in the nature of an attachment, the justice before issuing the same shall take the affidavit of the plaintiff, his or her agent or attorney, of the amount of the debt or demand due from the defendant, and that he or she abscond, or secrets him or herself ; that he or she actually resides out of this territory ; or that he or she is about to remove, him or herself or

effects from this territory, so that the ordinary process of law cannot be served upon him or her, and that the attachment is not sued out for the purpose of vexing or harrassing the defendant, or other improper motive, and also give bond, and sufficient security, in double the amount of the demand sworn to, conditioned, "that the plaintiff shall prosecute his or her attachment to effect, and pay the defendant all such damages as he or she may sustain by the wrongful or vexatious suing out such attachment," and such attachment may be levied on the defendant's goods and chattels, which shall remain in the hands and possession of the officer levying the same, unless the defendant, his or her agent or attorney or some other person replevy the same, by giving bond and security in double the amount of the plaintiff's demand, conditioned, that if the defendant be condemned in the action, he shall pay the condemnation money, or render himself a prisoner; and in case he fail so to do, the securities will do it for him.

Sect. VI. When any process in the nature of an attachment shall issue, and the defendant resides without the limits of the territory, and has no agent or attorney within the same, no judgment shall be rendered on such attachment until six months after the issuing of such attachment, or until the defendant be notified by conveying a notice to him or her by mail, where his or her residence is known, or by advertising the same, in the manner the justice issuing the attachment may direct, where the defendant's place of residence is unknown; nor shall the property so levied on be sold unless the plaintiff, his or her agent or attorney, or some credible person, will make oath that the goods and chattels are likely to waste or be destroyed by keeping, and in that case the justice shall, by order in writing, direct such property to be sold, giving at least fifteen days notice of the time and place of such sale by advertisement, set up at three of the most public places in the county, and the money arising from such sale shall remain in the hands of the justice, subject to his final judgment on the attachment.

Sect. VII. On application to any justice of the quorum or of the peace, if the plaintiff comply with the requisitions prescribed in the fifth section of this act, said justice may issue an attachment, although the debt or demand of the plaintiff may not be due, which attachment shall be a lien on the property attached, until such debt or demand becomes due, when judgment shall be entered and execution issued; but if the property so attached be clearly of a wasting or perishable nature, then the same shall be sold, giving a credit on the same until the debt or demand of the plaintiff becomes due, on the purchaser's giving bond and security for the payment of the purchase money, which bond shall be lodged with the justice, who shall issue execution thereon against the principal and security or either of them, if the money is not paid at the expiration of the time given.

10. Sect. VIII. When an attachment is levied upon any property

in the hands of any person not a party to the suit, is suspected to have goods and chattels or effects of the defendant in attachment, in his or her hands and possession, or be indebted to him or her, the justice issuing the attachment shall on such suggestion, summon such person as garnishee, and if such garnishee appear, he or she shall be examined on oath, touching such goods and chattels of the defendant, as he or she may have had in his or her hands and possession, at the time of the service of the summons aforesaid, or then has in his or her hands and possession and such sum or sums of money or quantity of merchandize, goods and chattels as he or she may owe, and be indebted to the defendant, and what goods and chattels of the defendant, he or she may know to be in the hands and possession of any other person; or sum or sums of money or quantity of merchandize, goods and chattels, he or she may know to be due from any other person to the defendant; and if such garnishee answer, that he or she has goods and chattels, wares and merchandize of the defendant in his or her possession or acknowledge him or herself indebted to the defendant, the justice shall enter judgment against such garnishee for the value of the goods and chattels of the defendant in his or her hands and possession at the time of the service of the summons aforesaid ; or that he or she then has, or such sum or sums of money as he or she may have owed at the time of the service of said summons, or then owes ; but if the garnishee fail to appear, and obey the summons of said justice on return thereof served ; the justice shall enter judgment by default against such garnishee : and if he or she appear and answer wihin ten days thereafter, said judgment shall be set aside and such judgment be entered as the justice of the case may require : but if such garnishee, fail to appear within ten days after judgment, by default, against him, or her, the justice shall issue his second summons commanding said garnishee to appear at a time certain, and if said garnishee fail to appear at said time, final judgment shall be entered against him or her for the amount of the plaintiff's demand and costs of suit, and execution shall issue thereon ; Provided, that in all cases when any garnishee may have in his hands or possession any property belonging to the defendant or be indebted to the defendant, any and specific property, he shall be at liberty at any time, within twenty days after final judgment entered against him as garnishee, to deliver the same to the justice of the peace or officer serving the attachment in discharge of himself ; and the same shall be sold to satisfy such judgment as may be obtained against the defendant in attachment, and in all cases it shall be the duty of the justice of the peace by the proper officer to call for the property deposed to be due from, or in the hands and possession of any garnishee, at the usual place of residence of such garnishee, within a reasonable time after the final judgment rendered.

11. Sect. IX. If any person be garnisheed in attachment, and doubts be raised as to the right of property attached, then in the hands of the garnishee, or be claimed by him or her, or as to the right of any property attached; or as to the right of any property levied on by exe-

cution from a justice of the quorum, or of the peace, it shall be the duty of such justice to stay all proceedings and issue a *venire facias* to the constable, requiring him to summon a jury of seven men to appear before him at a certain time and place therein mentioned, not less than five, nor exceeding ten days to try the right of property, so attached or taken into execution ; and the justice shall administer an oath to the jury so summoned well and truly to try the right of property between the claimants and a true verdict give according to the evidence that may be produced on the trial ; Provided that any person conceiving himself aggrieved by any such verdict may appeal therefrom to the next superior court, and the right of property may be tried at the first term of said court by jury on an issue to be made up between the claimants at or before the trial and until such trial can be had the attachment, or execution shall continue to be a lien upon such property so far as the defendants right to the same extends ; and the justice shall send up all the papers in such case to said court.

12. Sect. X. It shall be the duty of each and every justice of the quorum or of the peace, at the time he issues his warrant, summons, or capias, against any defendant, to annex thereto a copy of the account or note on which the plaintiff's claim is founded, and if the sum claimed be twenty dollars or under, the justice of the quorum or of the peace may, at the trial of the cause, proceed to examine plaintiff and defendant on oath, and give judgment as to him the right of the cause may appear ; and in all cases where the sum of money claimed exceeds twenty dollars, the oath of neither party shall be admitted, but the same evidence shall be required by each and every justice of the quorum or of the peace as is required in the superior court.

13. Sect. XI. When any judgment is rendered by any justice of the quorum or of the peace, he shall, if the applicants give bond and security in double the amount of such judgment, including interest and costs for the payment of the same, at the expiration of the stay given by law, give a stay of execution on all sums not exceeding ten dollars, forty days ; on all sums over ten and not exceeding twenty dollars, sixty days ; on all sums over twenty dollars and not exceeding thirty dollars, five months ; and for all sums over thirty dollars, eight months ; and in case the money be not paid at the expiration of such stay, execution shall issue against the principal and security, or ether of them, for the principal, interest and cost, due on such judgment, and such judgment and all other judgments rendered by justices, shall bear legal interest from the time of their rendition until paid, and all executions and summons for garnishees in attachment, shall issue to the county where such principal, security or garnishee may reside and shall be duly executed and returned by any sheriff, coroner or constable of the county to which the same is sent.

14. Sect. XII. In order to give either party an opportunity to appeal, no execution shall issue on the judgment of any justice, until

five days after rendering such judgment, unless the plaintiff his or her agent or attorney, will make oath, that he or she has just reasons to believe that the plaintiff will be in danger of losing his or her demand by such delay, in which case execution shall issue immediately, and shall operate as a lien upon the property of the defendant, but shall not deprive him, or her of the right of appeal within the time prescribed by law.

15. Sect. XIII. In case it becomes necessary to issue a capias, the officer arresting any person by virtue thereof, may take a bail bond of the defendant with security, in double the amount of the debt, payable to the plaintiff, conditioned for his or her appearance on the day of trial; and in case he or she fail to appear, judgment shall be entered against him or her; but judgment shall not be entered against the bail, until an execution against the defendant shall have been returned by the officer that the defendant is not found within his county, and until notice shall have been served on such bail, requiring him or her to bring in the body of the principal; but in case the defendant cannot give bail, or in case the bail surrender him or her before the day of trial, he or she shall be committed to the jail of the county, until he or she satisfy the demand against him or her, or be otherwise discharged by law.

16. Sect. XIV. Every warrant, attachment, summons, subpœna, or other process issued by a justice of the quorum or of the peace, shall be made returnable at a day certain, giving a reasonable time for attendance, and if any witness duly summoned, fail to appear agreeably to the command of such summons or subpœna, he or she so failing shall be called out on such summons or subpœna and forfeit the sum of ten dollars with cost, for the use of the county, and for which the justice shall immediately enter judgment by default, against said witness, to be made final in case said witness do not attend within ten days after notice served on said witness of such judgment by default, and after the rendition of such judgment, and shew cause to the satisfaction of said justice, on oath or affidavit for such default.

17. Sect. XV. Any justice of the quorum or of the peace, may issue an attachment for any sum or sums above their jurisdiction, and make the same returnable to the superior court: *Provided*, the plaintiff comply with the terms and requisitions contained in the 5th section of this act, which attachment shall be executed by the sheriff, his deputy, or the coroner, except, that in cases of emergency, such attachment may be executed by a constable.

18. Sect. XVI. As many constables, as there are captains' districts in each county, may be appointed by the governor, each of whom shall before entering on the duties of his office, give bond and security in the penal sum of five hundred dollars, payable to the governor, and his successors in office; to be lodged in the clerk's office of the superior

court, such bond and security having been approved by the clerk, to be put in suit for any failure, or delinquency in office, and also to take and subscribe the following oath, or affirmation, that is to say: "I (A. B) do solemnly swear (or affirm, as the case may be) that I will faithfully execute and return every capias, summons, attachment, or other process directed to me, as constable for the county of and in all things well and truly, to the best of my skill and understanding, without malice or partiality, perform the duties of a constable for the time I may continue in office: So help me God;" and it shall be the duty of the constable so appointed to execute and return all process directed to him according to the commands of such process, and pay over all monies when collected by him, to the justice of the peace or party authorised to receive the same; and for want of goods and chattels on which to levy any execution, the constable shall take the defendant's body by virtue thereof, and convey him to the common jail of the county, and the sheriff or keeper thereof is hereby authorised and required to retain the defendant so taken in execution, and him or her safely keep till the debt and costs be satisfied, or such person be otherwise lawfully discharged.

19. Sect. XVII. Where any property is taken by a constable, by virtue of an execution, he may, on the defendant in execution, or other person for him, giving bond and security in double the amount of the plaintiff's demand and costs for the forthcoming of said property on the day of sale, permit the property to remain in the possession of such person until the day of sale; and in case said property is not forthcoming agreeably to the condition of such bond, the constable shall certify the same to the justice of the quorum or of the peace, issuing the execution, and at the same time inform the party replevying, or his security, that judgment is intended to be entered against him, her, or them, and the said justice shall, in ten days thereafter, enter judgment against the party replevying the property, and his or her security, and issue execution for the plaintiff's demand, including interest and costs; but if the party replevying appear within the time prescribed for entering such judgment, and shew sufficient cause to the satisfaction of the justice for not producing said property on the day of sale, and deliver said property into the hands of the constable, and pay all costs that may have accrued in consequence of his failure, judgment shall not be entered against him, her, or them, for the plaintiff's demand.

20. Sect. XVIII. In case of emergency any justice may authorise some reputable person to execute a process, although not commissioned as aforesaid, and without giving the bond and security required by this act; and the sheriff and his deputies may execute any process directed to him or them by a justice of the quorum or of the peace, and such person, sheriff and his deputies, or coroner, shall be entitled to the same fees as constables for similar services, and be liable to the same penalties.

21. **Sect. XIX.** If any constable fail to discharge the duties imposed by this act, he shall be liable to an action of damages at the suit of the party injured, and shall also pay a fine not exceeding ten dollars, and judgment shall be entered against him for the same whenever it appears to the satisfaction of any justice that such constable has been guilty of default or improper conduct, which fine when collected shall be applied to county purposes.

22. **Sect. XX** Justices of the peace and of the quorum shall have power and authority to take all manner of recognizances, with or without security, for good behaviour, to keep the peace or for appearance at the superior court, as the case may be, to answer to charges exhibited, or crimes committed in the view of such justices, or any of them, and whereof they have not competent power to hear and determine, and in case any person or persons shall refuse to enter into recognizance as aforesaid, and to find security when thereunto required, it shall and may be lawful for such justice or justices to commit the person so refusing to jail, there to remain until he shall comply with the order of such justice or justices, and all recognizances for the peace, good behaviour, or appearance at any court, or for suspicion of any manner of crime, shall be certified before the superior court of the county to be holden next after the taking thereof without concealing or detaining the same ; and if any person shall forfeit his recognizance of the peace, good behaviour, or appearance, the recognizance so forfeited with the record of default, or cause of forfeiture shall be sent and certified without delay by such justice or justices into such court.

Sect. XXI. Such justice of the peace or of the quorum, or any of them, as are now in commission or may hereafter be commissioned by the governor, shall by warrant under their hand and seal cause any person charged on oath of having committed, or being suspected of any felony or other crime or misdemeanor to be apprehended and brought before him ; to commit such person to jail where the offence is not bailable, or where the offender is either unable or unwilling to give bail to appear and answer to the crime alledged against him or her ; to take the recognizance or recognizances of any person charged with any crime not punishable with death, with sufficient security to appear at the next superior court of his or her country and answer the charge ; and the recognizance or recognizances of prosecutors and witnesses, and to issue search warrants for stolen goods, on the oath of some credible person, particularly describing the place suspected and intended to be searched ; provided, that in no case whatever, shall any justice of the quorum or of the peace, try the right of any property alledged to have been stolen ; but in all such cases where the property so alledged to be stolen is claimed by two or more persons, the justice of the quorum or of the peace, shall require of the person in whose possession the same was found to give security for the forthcoming of the property at the next term of the superior court, to abide the judgment or decision of said court, and in case such person does not give the security required by this act, then the justice may deliver the property to any other person upon their entering into the like bond and security.

Sect. XXII. When any person charged with felony, breach of the peace, or other crime, be brought before any justice of the quorum or of the peace, such justice shall immediately proceed to take the voluntary information of the accused in writing and the information on oath, of all witnesses that appear against him or her, touching the crime alledged to be committed; and it shall be the duty of said justice, to inform the accused of his or her privilege, to ask any question he or she may think proper; which questions with their answers, shall be reduced to writing by said justice, and it shall be the duty of said justice, to send up the recognizance or recognizances of the accused, the prosecutor and of the witnessess with the information of the accused and of the witnesses to the next superior court of their county, and any justice failing so to do, shall be fined in a sum not exceeding fifty dollars to be recovered on motion of the attorney-general in the superior court on three days previous notice of such motion.

Sect. XXIII. When any person charged with any criminal offence, removes or escapes from the county where such offence is alledged to be committed, into another county, it shall be the duty of any justice of the county to which such person may have removed or escaped on proof of the hand writing of any justice of the county, where the offence was committed to endorse any warrant issued by him, which shall be a sufficient authority for arresting such offender in any place within the jurisdiction of such justice, and such criminal shall be conveyed for examination to some justice of the quorum or of the peace within the county where the offence is charged to have been committed, and subpœnas for witnesses may issue to any county, on the part of the territory, where it is necessary for bringing an offender to justice, which shall be executed by some officer authorised to execute process in said county, where such witness may reside; and any justice of the county to which any offender may have removed or escaped, on the oath of any credible person, may arrest and have conveyed to the proper county for examination any person charged with felony or other crime.

23. Sect. XXIV. No justice of the peace or of the quorum, for any contempt offered to him, shall have power to order or inflict, or cause to be inflicted, any fine exceeding the sum of six dollars, nor any imprisonment exceeding six hours, and then only when such contempt shall be offered whilst such justice is sitting in judgment, and if any justice of the peace or of the quorum shall offend herein, he shall be deemed guilty of a misdemeanor in office, and shall moreover be subject to the action of the party injured, for damages to be assessed by a jury.

24. SECT. XXV. Every person who shall be appointed a justice of the peace or of the quorum shall before entering on the duties of his office take an oath to support the Constitution of the United States, and also the following oath or affirmation, to wit: I A. B. do solemnly swear (or affirm) that as a justice of the peace (or of the quorum as the case may be) in the county of in all things, I will do equal right to the poor and to the rich; to the best of my judgment and according to the laws of the territory: I will not privately, nor openly by myself, or any other person be of counsel in any quarrel or suit depending before me, the fines and amercements that shall be made, and the forfeitures, that shall be incurred before me, I will cause to be duly entered, and will truly and faithfully account for, and pay the same over to the proper officers required by law to receive the same without concealment or delay. I will not willingly or wittingly take either by myself or by any other person for me, any fee, gift, gratuity or reward whatsoever for any matter or thing by me to be done by virtue of my office, except such fees as may be directed and limited by law; but that I will well and truly perform the duties of my said office. I will not delay any person of common right, through favor, affection, or partiality, or refuse to take recognizance of any complaint made before me, which by law comes under my jurisdiction. I will not direct or cause to be directed any warrant by me to be made, to the parties, but will direct all such warrants to the sheriff, or constable of the county, or other officers of the territory, or to some other disinterested person to do execution thereof, the sums of money received before me and paid into my hands, for the benefit of others, I will, well and truly account for and pay over, without concealment or delay, and finally in all things belonging to my office, during my continuance therein, I will faithfully, truly and justly, according to the best of my skill and judgment, do equal and impartial justice to all: So help me God.

SECT. XXVI. If any person who shall be appointed a justice of the peace, or of the quorum shall presume to execute such office without first qualifying himself in the manner by this act required he shall forfeit and pay the sum of two hundred dollars, one moiety thereof to the use of the county, and the other moiety to him or them who shall sue for the same to be recovered with costs in any court having cognizance thereof.

25. SECT. XXVII. When there is no coroner, within the county, or where the coroner cannot conveniently attend, any justice of the quorum or of the peace, may exercise and discharge the duties of coroner when any person is killed or suddenly dies, and shall be entitled to the same fees as the coroner.

26. SECT. XXVIII. Where there is no notary public, or where the notary is absent or incapable of acting; any justice of the quorum or of the peace, may discharge the duties required of such notary, by the

acts of this territory for which he shall receive the fees allowed by law for such services.

27. Sect. XXVIII. *See Fees for Justices and Constables No.* 10.

28. Sect. XXIX. When any justice of the quorum or of the peace, dies, resigns, or removes from the county, or is removed from office, his papers shall be transferred to the nearest justice, to his place of residence, who shall finish the business of said justice in the same manner as business originally commenced by him.

29. Sect. XXX. If any person shall wilfully pull down any advertisement, which is required by law to be set up by any person or persons, he or she so offending, shall forfeit for the first offence five dollars, and for every like offence thereafter ten dollars, to be recovered before any justice of the quorum or of the peace, by any person suing for the same; which fine, when collected, shall be paid into the county treasury, for county purposes.

30. Sect. XXXI. When any justice of the quorum or of the peace, or constable, shall fail to pay over to the person authorised to receive the same, any money collected by them, or either of them, in their official capacity, on complaint of such failure to any other justice of the quorum or of the peace, such justice shall issue his warrant or summons, commanding the justice or constable so failing, to appear before him, and if it appear that such justice or constable has wilfully failed to pay over the money collected by him, the justice trying the same shall enter judgment against such delinquent for the money so detained, and ten percent damages, and no stay shall be given on such judgment.

31. Sect. XXXII. The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, twenty-seventh, twenty-eighth and twenty-ninth sections of an act, entitled in the Digest "An act for the appointment of justices of the peace, and the establishment of county courts, and the act entitled an act for the easy and speedy recovery of small debts," passed February first, eighteen hundred and five; also the act entitled "an act to extend the jurisdiction of justices of the peace, passed the 22d day January, eighteen hundred and fourteen, shall be, and the same are hereby repealed: *Provided*, That no acts or parts of acts, repealed by the above recited acts, shall be revived by virtue of this section: *And, provided further*, That nothing contained in this act, shall be construed to invalidate proceedings already had, or now depending, before any justice of the quorum or of the peace, or to take away the power of any such justices, to try writs of forcible entry and detainer, to punish offenders under the act, for the suppression of vice and immorality; an act to restrain idle and disorderly persons, and an act prescribing a summary mode for the trial of slaves, or any other powers of said justices, not specially provided for by this act, or

to the office of constables who have given bond and security as required by the seventh section of the act entitled "an act to extend the jurisdiction of justices of the peace."

LIQUORS AND PROVISIONS.

Unwholesome, penalty for selling 1
Bakers to mark their bread, &c. 2
To have their initials, or mark recorded 3

ACT of December 27, 1815. (Stat. p. 74.)

1. Sect. I. If any butcher, baker, brewer, distiller, tavern keeper, retailer of wine or spirituous liquors, or other person or persons shall sell, offer or expose to sale, or suffer or permit their servant or servants or other person for him, her or them, to sell, offer or expose to sale, any tainted, putrid or unwholesome fish or flesh, or the flesh of any animal dieing otherwise than by slaughter; or slaughtered when diseased for the purpose of being sold or offered for sale; or any tainted, putred or unwholesome bread, or other cooked or raw food of any kind whatever; or any adulterated and unwholesome wines or spirituous liquors; shall for every such offence, on conviction thereof before any justice of the peace within the county or corporation where the offence was committed, on the evidence of any two creditable witnesses, forfeit and pay a fine of five dollars, with costs, one half to the prosecutor, and the other half to the overseer of the poor of the district where the offence was committed for the use of the poor thereof.

2. Sect. II. It shall be unlawful for any baker, his or their servant or servants or other person or persons to sell, offer or expose to sale any bread without having the bakers surname and the initials of his christian name legibly marked on each and every loaf, cracker, cake, piece or division of any kind of bread, offered or exposed to sale by whatever name the same may be called, and any person or persons who shall sell, offer, or expose to sale any such unmarked bread by whatever name the same may be called, shall for every such offence forfeit and pay five dollars with costs, recoverable before any justice of the peace of the county or corporatson where the same was offered for sale; on the evidence of one creditable witness, one half of the fine to the overseer of the poor of the district where the offence was committed, and the other half to the prosecutor; and shall moreover forfeit all such unmarked bread, so offered for sale, for the use of the poor.

3. Sect. III. Any person or persons who shall follow the business of a baker within said territory shall have the initial of his given name, and his surname at full length as is intended and directed by the second

section of this act, put on record in the office of the register of the orphans court of his proper county, or in the office of the clerk of the corporation where he may reside, and any person or persons who shall counterfeit or mark the same shall for every such offence forfeit and pay twenty dollars on conviction recoverable with costs before any justice of the peace of the proper county or corporation, for the use of the poor where the offence was committed.

MARRIAGES.

Who may solemnize the rites . 1
Religious societies . . . ib.
Registers of courts, &c. evidence thereof 2
Quakers and menonists . . 3
Licenses by whom issued, &c. . 4
Penalty on judge, &c. for marrying without 5
Certificates of marriage to be recorded 6
Within what degrees persons may marry 7

ACT of July 20, and January 5, 1805, revised and amended February 10, 1807. (Dig. p. 368.)

1. Sect. I. Any one of the territorial judges; any ordained minister of the gospel; and any justice of the peace, within the county in which such justice is assigned to keep the peace, may solemnize the rites of matrimony between any free persons within this territory, who shall produce a license, as herein directed: *Provided*, That such minster shall have produced to the orphans' court of some county in this territory, credentials of his ordination, and of his being in regular communion with the christian society of which he is a member; and have obtained from such court, a testimonial, authorising him to solemnize the rites of matrimony, in this territory; which said testimonial shall be granted at the discretion of the said court; and recorded by the register in a book, to be kept for that purpose: as also, for the purpose of recording therein, all marriage licenses, consent of parents and guardians, and certificates of the solemnization of marriages.

Sect. II. It shall and may be lawful for every pastor of any religious society in this territory, to join together in marriage, such persons as are of the society, according to the rules and customs established by such society, to which they belonged. *Provided*, That the clerk or keeper of the minutes, proceedings, or other books of the religious society, wherein such marriage shall be had and solemnized, shall make a true and faithful register of all marriages solemnized in the society, in a book by him kept: and return a certificate of the same to the register of the orphans' court; to be by him entered in his book kept for that purpose.

2. SECT. III. Such book of marriages, so kept by the respective registers of the orphans' court, and by the clerks of such religious societies, as are authorised to solemnize marriages, by the preceding section of this act, shall be admitted as evidence in all the courts of law and equity, in this territory.

3. SECT. IV. It shall be lawful for the people called quakers and menonists, or any other christian society that have adopted similar regulations in their church, to solemnize their own marriages, and be joined together as man and wife, by the mutual consent of the parties, openly published and declared before their congregation, when convened for religious worship; in manner, and agreeable to the regulations heretofore practised in their respective societies.

4. SECT. V. Marriage licenses shall be hereafter granted and issued by the register of the orphans' court of the county in which the female usually resides, under the following regulations and restrictions. The register shall take a bond with sufficient security, in the penal sum of two hundred dollars; payable to the governor of this territory, for the time being, and his successors in office, for the use of the territory, conditioned, that there is no lawful cause to obstruct the marriage, for which such license is required: and if the male, intending to marry, be under the age of twenty-one years, or the female under the age of eighteen years, the consent of the parent or guardian of such infant shall be personally given before the said register, or due proof made to him by the oath of at least one credible witness; which oath the said register is hereby authorised to administer, that such parent or guardian did sign a certificate, then produced, giving his consent for the celebration of such marriage; whereupon the said register shall record the consent personally given as aforesaid; or the certificate thereof, proved as aforesaid, and issue a license and record the same, directed to any judge, minister, or justice, lawfully authorised to celebrate the rites of matrimony. And if any register shall issue any marriage license, without the requisites before prescribed, or in any other manner than above mentioned, such register shall, for each offence, forfeit and pay five hundred dollars; recoverable by action of debt, in any court having cognizance thereof, one half to the use of the territory, and the other half to the use of the person suing for the same.

5. SECT. VI. If any judge, minister, or justice, shall join any persons together as man and wife, without lawful license, as by this act required, or go out of the territory and marry persons belonging to the territory, without such license, such judge, minister, or justice, shall, in either case, forfeit and pay the sum of one thousand dollars; to be recovered by action of debt; one half to the use of the territory, and the other half to the use of the person suing for the same.

6. SECT. VII. A certificate of every marriage hereafter solemnized, signed by the judge, minister, or justice, celebrating the same;

or (in case of quakers, menonists, and other societies that solemnize their marriages by consent of parties, taken in open congregation as aforesaid) by the clerk of the meeting, shall be transmitted by such judge, minister, justice or clerk, as the case may be, to the register of the orphans' court, of the county wherein the marriage is solemnized, to be recorded within six moths thereafter, by the register; an exemplification of which shall be evidence of such marriage. And the said register shall receive for his services, for taking bond, consent of parents or guardians, and recording the same, granting and recording license and marriage certificate, the sum of two dollars; to be paid at the time of issuing such license. And every judge, minister, justice or clerk of a congregation, as the case may be, failing to transmit such certificate to the register within the time above prescribed, shall forfeit and pay the sum of fifty dollars, to any person who will sue for the same.

7. Sect. VIII. If any person shall marry within the following degrees, that is to say: If the son shall marry his mother or step-mother, the brother his sister, the father his daughter, or his daughter's daughter, or if the son shall marry the daughter begotten and born of his step-mother; or his aunt, being his father's or mother's sister; or marry his uncle's widow; or if the father shall marry his son's widow; or if any man shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter; every person or persons so unlawfully married, shall be prosecuted by indictment; and on conviction, shall be fined not exceeding five hundred dollars; to the use of the territory. And the court, on conviction as aforesaid, shall moreover declare such marriage null and void, to all intents and purposes; and may at their discretion cause the parties so separated to enter into a recognizance, with security, that they will not cohabit thereafter: *Provided*, That nothing herein contained shall be so construed as to render illegitimate the issue of any such marriage, begotten before the same is so annulled.

MISSISSIPPI SOCIETY.

Incorporated, and its powers . 1
May make by-laws . . . 2
A public act, and may be given in evidence 3

ACT of November 8, 1803. (Dig. p. 409)

1. Sect. I. Isaac Briggs, William C. C. Claiborne, William Dunbar, John Henderson, John Girault, Lewis Kerr, Joseph Briggs, David Lattimore, Joseph Macrery, Jesse Greenfield, Ferdinand L. Claiborne,

Benjamin Farar, Israel E. Trask, Philander Smith, Adam Tooly, Samuel Briggs, junior, Hore Browse Trist, John Ellis and William Connor, members of the said society, and such other persons as shall from time to time hereafter become members of the same, according to the constitution and laws thereof, as the same may have already been, and shall hereafter be ordained or enacted, shall be, and are hereby constituted and declared to be one body corporate and politic, in fact and name, by the title of "*The Mississippi Society, for the acquirement and dissemination of useful knowledge*," and by that name they and their successors, aforesaid, shall have perpetual succession. They shall have a common seal, which they may change and alter at their pleasure. That by the same name, they and their successors aforesaid, shall be persons capable in law to purchase, take, receive, hold and enjoy, to the use of them and their successors, all manner of real estate, fee simple, or lesser interest in real estate: and the same to lease, release, sell, alien and convey at their pleasure: and all manner of goods, chattels and personal estate, in like manner, to purchase, receive and enjoy; and at their pleasure, sell, or otherwise dispose of. That by the same name, they and their successors aforesaid, shall be persons capable and liable in law of suing and being sued, pleading and being impleaded, in all manner of actions, suits, and controversies in law, equity or otherwise, as far as corporations, from their nature, may be so capable and liable, according to the usual course of law.

2. Sect. II. The said society shall be in all things governed by such constitutions, by-laws and resolutions as may have already been, and shall hereafter be ordained, enacted, made or passed for that purpose, in and by the said society. *Provided*, That such constitutions, by-laws, rules and resolutions be not repugnant to the Constitution of the United States, or the ordinance or laws of this territory, or of such state as may hereafter be erected, wherein the said society shall be.

3. Sect. III. This shall be, and be deemed a public act; and notice shall be taken thereof as such, in all courts of justice and elsewhere: and it shall and may be given in evidence on the trial of any issue, or otherwise, in any cause, without being specially pleaded.

MILITIA.

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ACT of January 22, 1814. (Stat. p. 53.)

1. **Sect. I.** The militia of the Territory shall form one brigade, for which there shall be one brigadier-general, and one adjutant-general, which adjutant-general shall rank as lieutenant-colonel, who shall reside at the seat of government, and receive an annual salary of three hundred dollars, payable out of the territorial treasury; and perform the services hereinafter prescribed. The brigade shall be further divided into regiments, battalions and companies. Each regiment to consist of two battalions, and to be officered by one lieutenant-colonel, one adjutant, and one quarter-master, each with the rank of first lieutenant; and to be appointed by the governor. There shall also be one surgeon to each regiment. Each battalion to consist of four companies (in no case less than three) and to be officered by one major.—Each company to consist of sixty-four privates, or as many as may reside within the bounds assigned to it, and shall be officered by one captain, one lieutenant, one ensign, four sergeants, four corporals, and two musicians. The non-commissioned officers to be appointed by the commanding officers of companies annually. The regiments to be numbered as they were before the passing of this act.

2. **Sect. II.** The commanding officers of companies shall continually enrol every free white male, who shall have been ten days in their respective beats, and who shall be above the age of eighteen, and under the age of forty-five years, and shall give notice to such person of his enrolment. The territorial treasurer, auditor of public accounts, regularly licensed ministers of the Gospel according to the rules of their sects, teachers in the public seminaries, keepers of public ferries on post roads, post-masters, and mail carriers, territorial judges, the justices of the quorum and attornies general, be, and they alone, are hereby exempted from the duties of this act: *Provided*, That the clerks and sheriffs of the courts shall be exempted from ordinary militia duty, but not from a draft for actual service.

3. **Sect. III.** Every person so enroled, shall within three months thereafter, furnish himself with a good firelock of some sort, and with a cartridge box, or shot pouch containing two spare flints and ten rounds of powder, and ball at least, unless such person shall make oath that he cannot procure them without impoverishing himself, or family; and within the same time all commissioned officers shall arm themselves with a sword, or hanger, and shall uniform themselves as the governor shall hereafter prescribe. And before he enters on the duties of the office, to which he shall have been appointed, shall take and subscribe an oath to support the constitution of the United States, and also to demean himself well, and faithfully, and impartially to execute the duties of his office, to the best of his ability. A certificate of which shall be lodged with the adjutant of his regiment; and in case two or more officers of the same grade, shall hold commissions of the same date, they shall determine precedency by lottery.

4. Sect. IV. Regiments and battalions shall muster once in each year respectively, and companies shall muster once in every two months, and oftener, at the discretion of the officer commanding the regiment, each muster to continue one day, and to be as near the centre of the regiment, battalion or company as may be convenient.

5. Sect. V. It shall be the duty of the brigadier general or officer commanding the brigade to order regimental musters annually, and to give thirty days notice thereof to the commanding officers of the respective regiments. He shall attend every regimental muster, and review the regiment. He shall see that the adjutant general does his duty. He shall have power, and it shall be his duty to arrest the adjutant general, or any lieutenant colonel for negligence, incapacity, disobedience, mutiny, insubordination at all times; and also for drunkenness, ungentlemanly conduct when on parade, or in actual service, and detail a special court martial to try such officer on charges alledged, to consist of seven members, three of whom, to be of equal grade with the person accused; which court shall meet, choose a president, and judge advocate from its own body, shall have power to compel the attendance of witnesses, and members, and shall be qualified in the usual way; and any such officer so arrested, shall be tried, and censured, suspended, or cashiered as the case may require. *Provided,* The executive sanction such sentence.

6. Sect. VI. It shall be the duty of the adjutant general to obey, and transmit all orders received from the executive, or brigadier general. He shall keep a register of the officers of the brigade, their grades and promotions. He shall also keep a register of the strength, and arms of the brigade as furnished him by the different adjutants of the regiments, according to regiments, battalions, and companies, and shall record all general orders. He shall make out, and transmit the detail, when a portion of the militia is to be drafted, preserve a complete muster roll of them, and furnish them to the extent of his means with suitable equipage. He shall forward to the different adjutants suitable blank forms of inspection, muster, and pay rolls of regimental, battalion, and company provision returns, &c. He shall record the sentence of any court martial, held for the trial of an officer, and he shall every six months (and oftener if required) report to the executive fully the strength and condition of the brigade, according to regiments and battalions.

7. Sect. VII. It shall be the duty of each lieutenant colonel to give fifteen days notice by his adjutant, of the time and place of holding a regimental muster, to every commissioned officer in the regiment. He shall attend the regimental muster of his regiment, and have the regiment properly drilled. He shall with the assistance of his adjutant, assemble and drill for two days together the commissioned and non-commissioned officers of the regiment, in the march, the manual, the most approved evolutions, and in camp duty, at some convenient place

in the regiment; having advertised notice of the time and place of holding such drill, for twenty days, previously thereto, at the court-house of the county. He shall order battalion musters annually in his regiment, and give fifteen days notice thereof to the majors of the battalion, and attend himself at such musters. He shall call out his regiment, or any part thereof in case of alarm. He shall obey and execute all orders, directed to him from a superior officer. He shall have power, and it is his duty to arrest any officer of his regiment, for any offence as enumerated in the fifth section of this act, and detail a special court martial from his regiment, to consist of five members, one of whom to be of equal grade with the accused, to try such officer on charges alledged. Such court shall qualify, choose its officers, have the same power, and proceed in the same way, that the court provided in the fifth section of this act, does, provided no sentence of such court martial, shall be executed, unless approved by the executive. He shall detail a regimental court martial twice in each year to assess fines on commissioned officers, and to hear appeals from company courts martial. He shall note down, and return the delinquencies of his majors, adjutant and quarter master, to the regimental courts martial. He shall give due notice of the meeting of a regimental courts martial to members and defaulters: and he shall execute all other duties of a lieutenant colonel commandant.

8. Sect. VIII. It shall be the duty of a major to obey, and execute all orders from a superior officer. He shall give eight days notice by the adjutant to the captains in his battalion, of any battalion muster, attend such muster, and drill the battalion. He shall furnish to the adjutant as often as required an account of the strength and condition of his battalion, and he shall attend once in three months each company muster in his battalion, and return the captains of his battalion to the regimental courts martial for any delinquency.

9. Sect. IX. It shall be the duty of the regimental adjutant, to attend all field musters in the regiment, and prepare the regiment or battalion for review, or evolution. He shall keep a register of the officers of the regiment, with their grades, and of the strength, and condition of each company. He shall obey all orders from his colonel, or major, and serve all notices, or process directed to him, on the officers of his regiment. He shall attend the regimental courts martial, (held for the assessing of fines,) as judge advocate, shall collect all fines assessed by such court, on officers, and pay them over to the quarter master of the regiment. He shall keep a record of all general, regimental, or battalion orders, and of the proceedings of regimental courts martial. He shall keep a register of every private, and officer drafted, or detailed for duty, muster, inspect, and march to the place of rendezvous every detachment of detailed militia, and forward a complete muster roll of them to the adjutant general. He shall distribute to the captains of the regiment such forms as the adjutant general may furnish him. He shall forward to the adjutant general semi-annually

a complete return of the strength, arms, and condition of his regiment, according to companies; and each adjutant shall receive such compensation as the regimental court martial shall think right for his services, to be paid by the quarter master, out of fines collected on order from the president of such court.

10. Sect. X. It shall be the duty of the quarter-master to attend the field musters, choose a place for parade, and with his guard prevent disturbance. He shall receive all money, collected for fines, by the sergeants and adjutant, and receipt for the same. He shall attend the regimental court-martial, and account to it at every session for the amount of fines, and how expended. He shall, on order from lieutenant-colonel, purchase music and colors, and pay the allowance made to the adjutant out of the amount of fines collected; and he shall give sufficient security to the lieutenant colonel for the performance of his duties; and shall retain ten per cent. on the amount of fines collected, as a compensation.

11. Sect. XI. It shall be the duty of the captain to hold musters and courts-martial every two months, to give five day's notice of every regimental, battalion, or company muster, to his subalterns and privates; and the same notice to all defaulters, of the time of his holding his company court-martial. He shall note down and return to the regimental court-martial, the delinquences of his subalterns, and shall cause his sergeant to note down and return all delinquences of non-commissioned officers and privates to his company court-martial. He shall drill his company in the step, the manuel, and the most approved evolutions.

12. Sect. XII. The following fines shall (without arrest) be assessed on officers, and privates in default at the stated regimental, and company courts martial. On a lieutenant colonel for non-attendance at any regimental or battalion muster, or any drill of the officers, or any regimental courts martial, fifteen dollars; for omitting to give notice of any regimental musters, fifteen dollars; for omitting to order battalion musters annually, ten dollars; for failing to detail a regimental court martial twice in each year, and giving to the members, and defaulters due notice, and presiding at such court, twenty dollars; for failing to call out his regiment on alarms, or failing to hold any draft ordered, one hundred dollars; for deficiency in any article of uniform, or arms, ten dollars; for neglecting to order music, and colours, to be purchased by the quarter master, and distributing the same, ten dollars; for neglecting to take bond of the quarter-master, ten dollars; for failing to arrest, and detail a special court-martial to try any officer in his regiment, for any offence above recited, twenty dollars; for failing to return his majors, adjutant and quarter-master, for any default, twenty dollars. On a major for non-attendance at any field muster, drill muster, or regimental court-martial, ten dollars; for failing to give any notice to his captains of any field muster, or re-

gimental court-martial, ten dollars; for deficiency of any article of uniform, or arms, ten dollars; for failing to turn out his battalion on order, or execute any draft therein, one hundred dollars; for failing to attend company musters as required by law, or to return any of his captains in default to the regimental courts-martial, fifteen dollars; for failing to make a return of the strength of his battalion to the adjutant semi-annually, twenty dollars; on an adjutant for failing to execute any one article of his duty, as enumerated in the ninth section of this act, any sum that the regimental court-martial shall judge sufficient, not to exceed fifty dollars; on a quarter-master for failing to account with the regimental court-martial, twenty dollars; for failing to execute any other item of his duty, as enumerated in the tenth section of this act, not exceeding twenty dollars. On a captain, or subaltern, for non-attendance at any field, or company muster, regimental or company court-martial, or drill muster, eight dollars; on a captain for failing to give any notice of any field or company muster, or company court-martial, ten dollars; for failing to drill his company every two months, or to hold courts-martial every two months, and give notice thereof to members and defaulters, five dollars; for deficiency in any article of uniform or arms in any captain, or subalterns, ten dollars; for failing to appoint and notify non-commissioned officers, twenty dollars; for not returning to the regimental court, his subalterns for default, five dollars; for failing to have his company rolls called at each field or company muster, and to return all defaulters to the next company court-martial, twenty dollars; for failing to appoint patrols, duly, twenty dollars; for failing to have all in his beat enrolled, or neglecting to return any private that is unarmed, five dollars; for failing to make to his major or adjutant a complete return of the strength and arms of his company, once in every six months, ten dollars; on a non-commissioned officer for refusing to act, ten dollars; for failing to give any notice, serve any process, or obey any order of his superiors, ten dollars; for failing to make return in writing to his commanding officer, of the manner he has executed any order, ten dollars; for failing to pay over money collected, double the amount thereof; for non attendance at drill muster, five dollars; on non-commissioned officers or privates, for non-attendance at regimental or battalion muster, two dollars; for non-attendance at company muster, one dollar; for disobedience, drunkenness, mutiny or misconduct on duty, arrest for the day, and not exceeding twenty dollars; for deficiency of any article of arms at muster, one dollar; for refusing to turn out in an alarm, not exceeding twenty-five dollars; for failing to repair to the place of rendezvous, or furnish a sufficien substitute when drafted, or ordered into service, fifty dollars, and all the penalties to which a deserter in the service of the United States is subjected. In addition to the fines assessed on officers and privates for non-attendance at any muster, the president of the court wherein such fines are assessed, shall add to each fine, one fifth part of the territorial tax that the person so fined pays; and any such president may call on the clerk of the court of his county to ascertain the amount of taxes, at any time before he makes out his order to the sergeant, or adjutant for collection: *Provided*, all reasonable excuses shall be allowed. *Provided also*, That any defaulter returned, may, previous to the fine being assessed, go before any justice of the peace and make oath, or proof, of his excuse for non-attendance at any muster, which shall be read in evidence on his trial before such court-martial.

13. Sect. XIII. The three officers of a company, or any two of them, shall hold courts-martial every two months, at their muster ground, or as near the same as may be convenient, on the day of the muster, or in ten days thereafter, in which they shall assess all fines incurred, by non-commissioned officers and privates, at any regimental battalion or company muster, or in any other way whatever, having given to each defaulter five days notice of the time and place of holding such courts, and having taken the one to the other, an oath to render impartial justice to all according to law, and to the best of their knowledge; and any person aggrieved by the sentence of any company court-martial, may appeal to the regimental court-martial next succeeding: *Provided*, such person give security to the president of such court below, to pay the fine in case the sentence be confirmed.

14. Sect. XIV. The commanding officer of a regiment shall once in every six months detail a regimental court-martial, to consist of at least five officers. The president shall administer the oath in the thirteenth section to the judge advocate, and he to the other members. Such court shall assess all fines incurred by the lieutenant-colonel, or any commissioned officer of the regiment in the cases above recited, and shall hear and decide all appeals sent up, and confirm or reverse them, and send by the adjutant a list of cases to each company, so confirmed or reversed, that the fine may be collected in the company. No officer shall sit whilst his own case is considered. The adjutant shall give ten days notice to the members and defaulters of the sitting of the regimental court-martial, on order of the lieutenant-colonel, and any officer may return the lieutenant-colonel, or any other officer in default, to the regimental court-martial for trial.

15. Sect. XV. The orderly sergeant of each company shall collect all fines assessed in company courts-martial, on an order from the president of such court containing a particular account of the amount of all fines, how and where incurred, and the names of the persons on whom they are assessed. And the adjutant shall collect all fines assessed by the regimental court-martial, on a like order from the president thereof. For the faithful performance of which, the sergeants shall give sufficient security to their captains, and the adjutants to their lieutenant-colonels. And they respectively shall pay over all fines collected to the quarter-master, and take his duplicate receipt therefor. Sergeants shall receive the fees to which a constable is entitled

on execution, and the adjutant shall receive two dollars in each case for such collection, and both shall retain ten per cent. on the amount collected ; and in case such sergeant, or adjutant, can find no property, either of them may seize the person of any defaulter, and lodge him in jail, until the fine be paid: *Provided*, such defaulter may be released, by swearing before a justice of the peace that he is not worth the fine.

16. Sect. XVI. Any lieutenant colonel may divide his regiment into battalions, and prescribe their bounds, and with the advice of the major may divide each battalion into as many companies as convenience requires, not less than three. And the governor may lay off and describe a new regiment when the population requires it. All officers shall reside in the regiment, battalion, or company for which they are appointed.

17. Sect. XVII. No officer, or private, shall be arrested by any civil process whilst attending any muster or court martial, or whilst going to, or returning therefrom, and any arrest, or service of process, or execution on the person at such time, is hereby declared void. All persons going to, or from muster, or court martial shall pass all ferries and bridges free of expense.

18. Sect. XVIII. Any officer may put into confinement for the day, any bystander that shall interrupt a muster, drill, or court martial, and any person enroled, appearing at any muster, or drill, shall be ordered into the ranks, and if he refuse, shall be put in confinement for the day, and fined in a sum not exceeding ten dollars; and no person shall be exempted as an invalid, unless a regimental court martial shall certify that he is wholly unfit, and unable for service, and in case such court have doubts, it may require the opinion of the regimental surgeon; as soon however as such inability be removed, such person shall be again ordered to duty.

19. Sect. XIX. All militia called into actual service, shall be paid, rationed, and governed as the United States' troops are, and shall be subject to the rules and articles of war, as established by the United States, whether such militia be accepted into the service of the United States or not.

20. Sect. XX. In case of a second draft taking place before the tour of duty may expire, the substitute shall stand his draft, and if drafted, be liable to join the second detachment as soon as his tour of duty may expire. And in case of drafts non-commissioned officers shall stand their draft as privates, and the detail shall call for officers and privates only. *Provided*, That any person furnishing a substitute shall notwithstanding be liable to attend company, regimental, and battalion muster, and perform patrol duty, but not liable to a second

draft until his regular tour may arrive, but substitutes shall be liable to stand their draft as other militia men.

21. Sect. XXI. The governor shall have power to arrest the general, and order for his trial a general court martial, to consist of thirteen members, five of whom shall be field officers, and eight captains; and the proceedings of such court shall be returned to the governor, and by him transmitted to the president of the United States for his final approbation, or confirmation. The governor's aids shall have the rank that a major general's aids in the United States service is entitled to.

22. Sect. XXII. In all cases the commanding officers of a beat company shall compel every person enrolled or residing in his bounds to do duty until such person shall produce a certificate from the captain of some volunteer light corps or troop of cavalry that he is legally enrolled in such light corps, or troop, and is equipt as such corps or troop require.

23. Sect. XXIII. All volunteer light corps of infantry or riflemen, and troops of cavalry shall be attached to, and do duty at field musters with the regiment in which they may respectively reside, shall be subject to the orders of the officers of the regiment, and to the regimental courts martial, and shall hold company courts martial, with appeal as above provided, and in regard to fines, notices, and every other particular of duty, such corps' shall be governed precisely as any regular beat company.

24. Sect. XXIV. The paymasters, and sergeant majors of the several regiments shall deliver over all their papers, and pay over all money in their hands to the quarter masters of the regiments respectively, and in case there remain fines not collected, the quarter master shall send the account of such fines to the sergeants of the several companies for collection.

25. Sect XXV. The governor shall appoint a number of persons as his aids-de-camp, not exceeding four as to him may appear proper, who shall hold the rank of major: and the governor shall also appoint three aids-de-camp to the brigadier general, who shall hold the rank of captain.

26. Sect. XXVI. It shall be the duty of the quarter master to proceed against all persons, having money in his or their hands by virtue of any militia law heretofore passed in the same manner that defaulting militia men are proceeded against, and have the same compulsory process.

27. Sect. XXVII. If any militia officer neglect or refuse to turn out his command, pursuant to the order of the commander in chief, or fail or neglect to repair to the place of rendezvous, when directed

such officer, shall be fined in any sum, not exceeding five hundred dollars at the discretion of the regimental court martial, trying such offence.

28. Sect. XXVIII. The commander in chief may whenever he deems it necessary organize the different troops of cavalry in the territory into squadrons, and regiments, and appoint field, and staff officers to the same ; he shall also be authorised to organize, and accept of the services of any light corps or companies of artillery.

29. Sect. XXIX. It shall be the duty of the quarter master to lay before the regimental court martial an account of all monies that have come into his hands by virtue of his office, and all disbursements in the preceding year. And after a sufficient number of drums, fifes, and colours are furnished, the surplus money shall be applied to the purchasing of arms, under the direction of the lieutenant colonel, and shall lay his receipt before the court martial.

30. Sect. XXX. The act entitled " An act concerning the militia of the Mississippi Territory," also an act entitled " An act to amend an act concerning the militia of the Mississippi Territory, and all other acts, and parts of acts, that come within the purview of this act, or in any way conflict with it, be, and the same are hereby repealed. Provided that the provisions of this act shall not affect the commissions of the officers of the militia as in force before the passing of this act.

ACT of December 22, 1814. (Stat. p. 16.)

31. Sect. I. The governor be authorised and empowered to accept of the services of volunteers from that class of citizens, exempt from militia duty, to act on cases of emergency, in the defence of the counties from which such tender of services may be respectively made ; and as soon as the number proffering their services from any one county will justify the appointment and commissioning of officers, the governor, at his discretion, shall make and issue, such appointments and commissions, being regulated by such rules, in establishing the grades as he may adopt ; provided no person be enrolled, under the age of eighteen, except by consent of his parent or guardian.

Sect. II. Immediately on the governor's acceptance of any number of volunteers, by virtue of this act, each private shall proceed to provide himself with a good rifle, musket or shot gun with four flints, twenty rounds of powder, ball, or buckshot, best suited to his gun, together with the most convenient accoutrements. The commissioned officers, shall be armed with swords ; and the arms and accoutrements of all such volunteers shall be exempted from executions in payment of debts and their persons, when on service, free from arrest in civil cases.

Sect. III. When any emergency shall make it necessary in the opinion of the governor, he is empowered to order the whole, or any part of the persons volunteering under this act to duty.

Sect. IV. Such volunteer corps, shall while in service be subject to the laws of congress, the rules and articles of war, and laws for the government of the militia of this territory.

Sect. V. Nothing herein contained, shall be so construed, as to vacate, or in any manner impair the commissions of any of the officers, that the governor may have heretofore appointed, or to disband any of the companies of exempts that may be now organised.

ACT of December 24, 1814. (Stat. p. 48.)

32. Sect. I. It shall not in future be the duty of the brigadier general to attend the regimental musters, nor shall it be the duty of the adjutant general to reside at the seat of government; provided, he will keep his office at that place.

33. Sect. II. All regimental courts martial, for the assessment of fines, for the trial of deserters, or for the trial of officers for improper conduct, shall consist of a president and judge advocate, to be appointed by the officer ordering the court, and six members, to be taken by detail from the commissioned officers of the regiment, where said court is ordered; the president and one of the members not to be of lower rank than captain, four members including the president may organise the court and proceed to business. In case the president does not attend, the senior member of the court attending shall be the president, and in case the judge advocate does not attend the president shall appoint some other person not a member of the court to perform that duty; and in all cases where the sentence of the court does not cashier the officer, or affect the life of the accused, the officer ordering the court shall approve and order the sentence to be carried into execution, or reject the same; and such proceedings shall not be transmitted to the governor or adjutant general; but in all cases, affecting the life of any person or the commission of an officer, the approval of the sentence of the court martial by the governor shall be necessary before the same is carried into execution.

34. Sect. III. In case there shall be but one commissioned officer in a captain's company, he shall be authorised and required to summon by his sergeant from an adjoining company in the same battalion one commissioned officer to sit with the officer issuing said summons, at the time and place specified by said summons, and to pass on all such delinquences as directed by law; and any officer refusing or neglecting to obey such summons shall be fined in the sum of five dollars, to be assessed and collected as other fines are collected in said regiment; and any officer or private fined agreeably to the provisions

of this act, shall have ten days to pay over their fines to the proper officer without cost.

35. Sect. IV. It shall be the duty of each lieutenant colonel or officer commanding a regiment in the event of any non-commissioned officer or private being drafted or ordered for service and failing to repair to the place of rendezvous, or furnish a sufficient substitute, to order a regimental court martial as soon thereafter as may be convenient to assess the fine, and in case such delinquent be arrested and in custody, he shall be tried for the desertion; and if any person shall abscond or fail to repair to the place of rendezvous when drafted or ordered as aforesaid any person whatsoever apprehending such delinquent, and delivering him to the officer commanding the detachment in service which he failed to join or from which he absconded shall be entitled to a certificate therefor and be credited for a six months tour of duty in the regiment to which he belongs, and any militia man drafted or ordered for service as aforesaid and failing to appear, the deficiency occasioned thereby shall be supplied from the captain's district to which such delinquent belonged, and in case he be afterwards arrested, he shall be bound in addition to the fine imposed on him by the court martial (if he is not sentenced to death) to take the place of the man who was drafted, to supply such vacancy, except the man apprehending such delinquent be a militia man in service, and in that case the man so apprehending him shall be entitled to a discharge from the service, and the person apprehended be put in his place.

36. Sect. V. It shall be the duty of each and every captain in this territory, to subject to a draft each person liable to do militia duty, who may at any time have been enrolled in his company unless he knows such person has actually removed permanently from his district, or unless such person so enrolled shall produce a certificate from some officer commanding a company, that he is duly enrolled in the company of the officer so certifying.

37. Sect. VI. When any militia from this territory are ordered into the service of the United States, the governor of this territory shall have power and authority to appoint and commission all officers required, not authorised by any express law of this territory, so as to officer the company, detachment, squadron or regiment conformably to the then military establishment of the United States, which commissions shall continue in force whilst the officer remains in service and no longer.

38. Sect. VII. It shall be the duty of each regimental adjutant before he transmits any return or report required to be made by him to present the same to be countersigned by the officer commanding the regiment or battalion as the case may be.

39. Sect. VIII. Members of the territorial legislature shall be exempt from militia duty.

40. **Sect. IX.** All commissioned officers who perform their duty on foot shall be armed with an espontoon, any thing in the act to which this is an amendment to the contrary notwithstanding.

41. **Sect. X.** So much of the second section of the act to which this is an amendment, as subjects clerks and sheriffs to draft for actual service, also so much of the ninth section of said act as requires regimental adjutants to march to the place of rendezvous any detachment of detailed militia, also so much of the eighth section of said act as requires majors to attend company musters once in three months; and all other acts and parts of acts coming within the purview and meaning of this act, be and the same are hereby repealed.

MILLS AND MILLERS.

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ACT of December 7, 1811. (Stat. p. 23.)

1. **Sect. I.** Every water grist mill already built, or which shall hereafter be built, and which hath, or shall at any time grind for toll, shall be deemed and held, and is hereby declared to be a public mill.

Sect. II. and III. *Repealed December* 14, 1812.

2. **Sect. IV.** It shall not be lawful for any person to erect a mill, so as to overflow any other mill, or create a nuisance to the neighborhood, any thing herein contained to the contrary, notwithstanding.

Sect. V. and VI. *Repealed December* 14, 1812.

3. **Sect. VII.** If any person shall think himself aggrieved by the determination of the county court, he may appeal therefrom to the

next superior court for the district in which the land doth lie, which court shall, and is hereby authorised and empowered, to take cognizance of the same, and to confirm such order, or reverse the same, and to give such judgment therein, as may appear reasonable and right.

4. Sect. VIII. The tolls, or rates, for grinding at the several water grist mills, within this territory, shall be fixed by the county courts of the county in which the mills may be.

5. Sect. IX. All mills shall grind according to turn, and shall well and sufficiently grind the grain brought thereto, if water will permit, and every miller, or keeper of a mill, making default herein, viz. not grinding according to turn, nor well, and sufficiently grinding the grain, if water will permit, as aforesaid, or exacting, or taking more toll, than is herein mentioned, shall, for every such offence, forfeit and pay five dollars to the party injured, to be recovered before any justice of the peace, in the county where such offence is committed, with costs: *Provided nevertheless*, That it shall be in the power of any such owner to grind, or cause to be ground, his own grain at any time he thinks proper, any thing in this act to the contrary notwithstanding.

ACT of December 14, 1812. (Stat. p. 25.)

6. Sect. I. Any person owning lands on one side of any water course, and desiring to build a water grist-mill, saw-mill, cotton-gin, or other useful water works on such lands, and to erect a dam across the same for working said mill, shall not himself have the fee simple property in the lands on the opposite side thereof against which he would abut his dam, or if he should have lands adjoining others through which it may be necessary to dig a ditch or canal in order to erect such mill, on his own lands, he shall make application for a writ of *ad quod damnum* to the clerk of the county court of the county wherein the lands proposed for the abutment, ditch or canal are, which clerk shall thereupon issue such process, directed to the sheriff of said county, commanding him to summon and impannel seven freeholders, to meet upon the lands so proposed for the abutment, ditch or canal, on a certain day, to be named by the clerk, and inserted in the said writ, of which ten days previous notice shall be given by the sheriff to the proprietor, his agent or tenant.

7. Sect. II. The freeholders or landholders so taken, shall be charged by the sheriff impartially and to the best of their skill and judgment, to view the said lands so proposed for the abutment, and to locate and circumscribe by certain metes and bounds, one acre thereof, having due regard therein to the interest of both parties, and to appraise the same according to its true value, to examine the lands above and below of the property of others, which may probably be overflowed, and to say what damage it will be of to the several proprietors, and whether the mansion house of any such proprietors, offices, curtiledges

or gardens thereunto immediately belonging, or orchards will be overflowed, to enquire whether in their opinion, the health of the neighbors will be materially annoyed by the stagnation of the waters, and if it be a ditch or canal, proposed through anothers' land, then to enquire what damage the same may be to the proprietor, and assess the same accordingly.

8. Sect. III. The request so made and sealed by the said jurors, or a majority of them, together with the writ, shall be returned by the sheriff to the succeeding county or intermediate court, who shall thereupon order summonses to be issued to the several persons, proprietors, or tenants of the land so located or found liable to damage, if they be to be found within the county, and if not, then to their agents therein, if any they have, to shew cause why the party applying should not have leave to build said mill and dam.

Sect. IV. If the lands above proposed for the abutment, ditch, or canal, should be the property of an infant, or *non compos mentis*, then the notices heretofore directed to be given, shall be given to his guardian, if any he hath, if not, then it shall be the duty of the orphans' court, to appoint one to whom such notices may be given; and if said lands shall belong to non-residents, the notices before required shall be published three weeks successively in the nearest gazette, which shall be deemed as good and effectual as if served on the parties personally.

9. Sect. V. In like manner, if the person proposing to build such mill and dam, shall have the property in the lands on both sides the stream, yet application shall be made to the clerk of the county court, wherein the mill-house will stand, for a like writ, which writ shall be directed, executed and returned, as prescribed in the former case.

10. Sect. VI. If, on such inquest or other evidence, it shall appear to the court that the mansion house of any proprietor, or the offices, curtiledges, or garden thereunto immediately belonging, or orchards will be overflowed, or the health of the neighbors will be materially annoyed, they shall not give leave to build said mill and dam, but if these injuries are not likely to ensue, leave shall be given as aforesaid.

11. Sect. VII. If the party applying obtain leave to build said mill and dam, he shall, upon paying respectively to the several parties entitled to receive the same, the value of the acre so located, and the damages which the jurors find will be done by overflowing the lands, above or below, or by the ditch or canal, become seized in fee simple, of said acre of land, and as much as may be necessary for such ditch or canal; but if he shall not within one year thereafter, begin to build the said mill, and finish the same within three years, and afterwards continue it in good repair for public use; or in case the said mill or dam be destroyed, he shall not commence re-building within one year after

such destruction, and finish it within three years, the said acre shall revert to the former proprietor, and his heirs, unless at the time of such destruction of the said mill or dam, the owner thereof be an infant, *feme covert*, imprisoned, or of unsound mind, in which case he shall be allowed the same terms for commencing and completing the said mill or dam, after such disability removed.

12. Sect. VIII. When any owner of a mill, heretofore, or hereafter established by law, may think necessary to raise his dam, the clerk of the county court, of the county wherein the pond lieth, upon application to them, shall grant a second writ of *ad quod damnum*, to value the additional damage done thereby, and under the same rules and regulations as herein before directed.

NATCHEZ.

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ACT of March 10, 1803, revised and amended by the act of December 9, 1809. (Stat. p. 36.)

1. Sect. I. The tract of country included within the following boundaries, shall hereafter be designated by the name of the City of Natchez, to wit: assuming the door of the Roman Catholic Chapel, within said city, as a central or regulating point, and thence running in the direction of the street in front of the said chapel, which was laid off in the directions of north 30 degrees east and south 30 degrees west, one mile each direction, at the extremities of which said two lines two points will be given in the upper and lower boundaries of said city, from which said two points running two lines at right angles to the first, or parallel to the streets of said city which are laid off south 60 degrees east, one mile each; at the extremities of which last two lines, two other points will be given, which being connected by a right line, will form the rear boundary of said city, thence returning

in the upper and lower boundaries, and continuing said lines or boundaries parallel to the streets of the city which were laid off north 60 degrees west to the middle of the river Mississippi, thence along the middle of said river, thereby completing the limits of said city.

2. Sect. II. The landholders, freeholders and householders within the said city, shall, on the first Monday in January next, and on the same day in each succeeding year, at or near the house where the mayor's court was lately holden, hold a meeting, to commence at the hour of ten o'clock in the forenoon, and close at the hour of five o'clock in the afternoon, and then and there elect by ballot, and a majority of votes, seven select-men, (a majority of whom shall at all times constitute a quorum to do business) also a city treasurer, assessor and collector, to serve for one year ; and the said select-men shall, on the day next succeeding such election in each year, meet and choose by ballot, from among their own number, a president, who shall in each and every year be commissioned by the governor as a magistrate and justice of the peace for said city, to continue in office until the first Monday in January next thereafter ; whose duty it shall be to preside and keep order at the meetings of the said select-men. And the said select-men shall be, and they are hereby constituted a body politic and corporate in fact and name by the style of "The president and select-men of the city of Natchez," and by that name they and their successors shall have perpetual succession ; shall have a common seal, which they may alter at pleasure ; and they and their successors shall be persons capable in law to purchase, take, receive, hold and enjoy to the use of them and their successors all manner of real estate, in fee simple or any lesser interest in real estate, and the same to lease, release, sell, alien or convey at their pleasure, and all manner of goods, chattels and personal estate in like manner to purchase, receive and enjoy and at their pleasure to sell or otherwise dispose of, and by the same name, they and their successors shall be persons liable and capable in law of suing and being sued, pleading and being impleaded in all manner of suits or actions in either law or equity, and do all other acts and deeds which are incident to bodies corporate. And the said select-men shall at their first meeting in every year have power and authority to raise such sum or sums of money by a majority of votes, as they may think necessary for the supply of the said city ; which sum or sums shall be assessed upon the said landholders, freeholders and householders within said city by assessor according to the regulations to be established by the said select-men, and collected by the collector at such time, and be paid and disposed of in such manner as the said select-men shall direct ; *Provided*, the sum or sums so to be raised, shall not in any one year exceed twelve and a half cents for every hundred dollars worth of property in said city liable to assessment ; but if the sum or sums so assessed and collected shall be found insufficient for the supply of said city, it shall be lawful for the president with the concurrence of two of the select-men to call a meeting of the said landholders, freeholders and householder of the said city by giving five

days previous notice of such meeting, specifying the objects and sum and the amount of the sums required to carry the same into effect, and the said meeting shall have power and authority by a majority of votes to order such further sum or sums to be raised as to them shall seem meet and expedient to be assessed, collected and paid as shall be directed by the said select-men.

SECT. III. In case of the death or resignation of any of the selectmen aforesaid, the president for the time being is hereby required to call a meeting of the said landholders, freeholders and householders within said city, five days previous notice of such meeting being given in some newspaper within this territory, who shall by ballot and a majority of votes proceed to supply such vacancy or vacancies.

3. SECT. IV. The said select-men shall meet on their own adjournments, and have power from time to time and at all times hereafter, to make such by-laws and regulations in writing, not inconsistent with the laws of the United States, or of this territory, as to them shall appear necessary for the good government of the said city, and the same to put in execution, revoke and alter as to them shall appear expedient: *Provided*, that all such laws shall be subject to the inspection and revocation of the legislature. They shall appoint a clerk of the market and such other subordinate officers as they may think necessary for the good government of said city; and by ordinance to require such security from the several officers, and to annex such fees to the several offices of the corporation, and to impose such fines for the neglect of duty in office, or misconduct in the same, as to them shall appear necessary, and to make, limit and impose and tax reasonable fines and amercements, in any one case not exceeding fifty dollars, against all and upon all persons who shall offend against the laws, ordinances and regulations of the corporation made as aforesaid; and all such fines and amercement to take, demand, require and levy of the goods and chattels of such offender, by warrant issued under the hand and seal of the president, directed to the constable of said city, who is hereby required and authorised to execute the same; which fines and amercements shall be paid to the city treasurer, to be appropriated to the use and benefit of the inhabitants thereof.

4. SECT. V. All suits and causes now pending or unsettled in the late mayor's court of said city of Natchez, together with all papers, documents and records appertaining to said court, shall be transferred to the county court of Adams county, in the same state in which they now stand; and it shall be the duty of the clerk of the said first mentioned court within one month after the passage of this act, to deliver the same to the clerk of the county court aforesaid, under the penalty of five hundred dollars, to be recovered in any court, having competent jurisdiction, one half to the use of the territory and the other half to the use of the person suing for the same.

5. **Sect. VI.** No claim or demand of what nature soever, against the said city of Natchez, or due or owing to the said city, shall be invalidated or impaired by any thing in this act contained, but shall continue chargeable against the same as before the passage thereof until discharged, or otherwise disposed of by the select-men aforesaid.

Sect. VII. No property or claim of said city derived either from the United States, or from any individual or individuals, shall in any wise be affected or impaired by this act.

6. **Sect. VIII.** A person of skill and capacity shall be appointed, and commissioned by the governor, clerk of said city, whose duty it shall be to record in books to be by him provided and kept for that purpose, all the proceedings of the city meetings, and meetings of the select-men ; as also, a city constable to be appointed and commissioned as aforesaid, whose duty it shall be to attend the said meetings, and execute all process issued by order of the said select-men.

Sect. IX. *Repealed December* 24, 1812.

7. **Sect. X.** The expense of supporting the poor within said city shall not in future be exclusively chargeable on its inhabitants, but be a general county charge.

8. **Sect. XI.** All the papers, documents, books and public property appertaining to the corporation of the city of Natchez, now in possession or care of any former city treasurer, marshal or collector, shall be delivered over to the selectmen aforesaid, within ten days after the same shall be elected, under the penalty of five hundred dollars each, to be recovered with costs in any court of record, having competent jurisdiction, one half to the use of the person suing for the same, and the other half to the use of the territory.

9. **Sect. XII.** Nothing in this act contained shall be so construed as to prevent the clerk or marshal of said mayor's court from recovering any fees to which they may be legally entitled, but that the same shall be collected and paid over to them respectively by the clerk or sheriff of the county aforesaid.

ACT of December 23, 1809. (Stat. p. 144.)

10. **Sect. I.** The ordinance of the mayor, aldermen and assistants of the city of Natchez, entitled " an ordinance to repeal certain ordinances and parts of ordinances therein mentioned, and for other purposes," as far as relates to allowing any salary, or fee to the said mayor, recorder or other officer of the said city, contrary to the provisions of the said first mentioned ordinance, during its continuance in force, and as far as it goes to lay a tax on cart-licenses be, and the same is hereby declared null and void.

ACT of December 7, 1811. (Stat. p. 33.)

11. Sect. I. The president and select-men of the city be, and they are hereby authorised to lay a tax on such carts, drays, waggons, or other vehicles of transportation, and on such only as may be employed in transporting for pay, or compensation, any article whatsoevr, from one place to another place within the limits of the city aforesaid.

12. Sect. II. The president and select-men of said city be, and they are hereby authorised to levy the city tax, authorised by the second section of the act to which this is an amendment, at such time within each year, as to them may seem most expedient, any thing in the act aforesaid to the contrary notwithstanding.

13. Sect. III. The select-men of said city, in office on the last day of December, in each and every year, shall remain and continue in office until successors be duly elected; and it shall be the duty of the select-men, or any three of them remaining in office, to preside at the annual election appointed to be held on the first Monday in January annually, and to declare the persons duly elected select-men at any such election, and when on counting the ballots, there shall appear to be an equal number for two or more candidates, it shall be the duty of the judges presiding at such election, to declare which of the said candidates is elected; and in case the whole number of select-men authorised by law, to be elected on the said first Monday in January, shall not be then elected, or if no election shall be had on that day, the said select-men so remaining in office, shall appoint another day by public notice given in said city, at least eight days previous thereto, for holding an election for select-men, or any number thereof who may not have been duly elected on the said first Monday in January. That, whenever any person or persons shall think himself, herself, or themselves aggrieved by any judgment of the president of the said board of select-men, when acting in his capacity of city magistrate, in any matter or cause arising under the ordinance and by-laws for the government of said city, the persons so aggrieved, shall have a right to appeal to the board of select-men of said city, who are hereby authorised to hear said appeal, and to give such judgment thereon, as to them shall appear equitable and right; and in case of reversal of said judgment so appealed from, the appellee or plaintiff in the suit, shall be adjudged to pay to such appellant his costs.

14. Sect. IV. The said president and select-men of said city of Natchez, shall be, and they are hereby authorised to lay out, alter and establish all needful roads and highways leading out of said city, as far as the limits of the jurisdiction thereof; and they are hereby authorised to lay out and extend the streets of said city, from time to time, in such manner as to them shall appear expedient, but they shall have no power to alter the boundaries of the lots contained in the plan of said city, and the streets thereof, as heretofore laid out and established.

ACT of December 24, 1812. (Stat. p. 133.)

15. Sect. I. In addition to the power already vested by law in the president and select-men of the city of Natchez, be, and they are hereby authorised to pass an ordinance requiring each and every person keeping or owning a dog or dogs, in said city, to procure a license therefor, from said president and select-men, permitting such person or persons to keep such dog or dogs, and that the said president and select-men be authorised to require from all and every person or persons obtaining such license, at the time of obtaining the same, the payment of a sum of money not exceeding one dollar per annum, for each dog so licensed to be kept, besides the sum of twenty-five cents to be paid on each of said licenses to the clerk of said city, for making out the same ; and also, requiring that each dog so licensed shall be furnished by the owner or keeper thereof, with a brass collar, or such other distinguishing badge of his being so licensed, as the said president and select-men shall deem proper.

Sect. II. It shall be lawful for any person or persons to shoot or kill any dog or dogs running at large in said city, not having such collar or badge, and not being licensed as aforesaid.

16. Sect. III. The said President and select-men be hereby authorised and empowered to pass all such ordinances as shall be necessary to suppress and restrain the keeping of disorderly houses in said city : *Provided*, That such ordinance or ordinances, shall not extend further than to the infliction of a fine or penalty not exceeding the sum of twenty dollars, for each offence against the provisions of such ordinance, to be levied or recovered in such manner as said ordinance shall prescribe. And for the full and more accurate understanding of the requisites and qualifications of voters for selectmen, treasurer, assesor, and collector for said city, and of the persons eligible to such offices.

Sect. IV. *Repealed January* 17, 1814.

ACT of January 17, 1814. (Stat. p. 22.)

17. Sect. I. From and after the passing of this act, every free white male person, who may have attained the age of twenty-one years, and shall have been an inhabitant of the city of Natchez, for at least six months next preceding any city election, and who shall have been assessed by the assessor, and who shall have paid a city tax on real or personal property, by the authority of the ordinances of said city, within the year preceding such election ; and also holders of a lot or lots within said city, which have been assessed and taxes paid thereon under the authority aforesaid, whether the owner of such lot or lots be an inhabitant of said city or not, shall be entitled, and none others, to vote for select-men, treasurer, assessor and collector for the said city of

Natchez: and such alone, shall also be eligible to any such office: *Provided*, he reside in said city: *Also provided*, that from and after the passing of this act, the president of the select-men shall not exercise the duties of justice of the peace, by virtue of such office.

NATCHEZ HOSPITAL.

Incorporated 1
Trustees, their powers, &c. . . ib.
Number of trustees, quorum, vacancies, &c. . . . 2
Treasurer, his powers and duties 3
Physicians, managers, &c. rules, &c. 4
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Reservation of legislative power 6
Trustees to meet annually, choose a president, &c. . . . 7

ACT of January 18, 1805. (Dig. p. 422.)

1. **Sect. I.** There shall be erected and established in the city of Natchez, a hospital, for the reception and relief of indigent boatmen, and other paupers, of every description in this territory, who may be in want of medical aid and asssistance; and who, if out of the limits of the city, may be sent thither by order of any justice at the expense of his proper county; to be called and known by the name of the "Natchez Hospital;" to be under the care, government and regulation of a body politic and corporate, as hereinafter provided.

Sect. II. John Steele, Adam Bingaman, William Brooks, William G. Forman, Abijah Hunt, John Girault, Ferdinand L. Claiborne, Samuel Postlethwait, junior, John Henderson and Job Routh, together with the mayor of the city of Natchez for the time being, be, and they are hereby created a body politic and corporate, by the name of "The President and Trustees of the Natchez Hospital;" and that they and their successors duly elected members of the said corporation, shall be and remain a body politic and corporate by that name, forever; and they and their successors shall be persons in law capable of suing and being sued, pleading and being impleaded, in all courts and places whatsoever; and may have a common seal, and alter and change the same at pleasure. They and their successors shall by the same name in law be capable of receiving, purchasing, holding and conveying any estate, real or personal, for the institution and use of the said hospital; all subscriptions, donations, grants, gifts, bequests and devises made, or that may be made, for the institution and use of said hospital, shall appertain to, and rest in the said corporation, by the aforesaid name, for the use and benefit of the said hospital, and for effecting the purposes and intentions of doners and grantors.

2. **Sect. III.** The number of the said trustees, including the president, shall not exceed eleven; six of whom shall be a quorum to do any business in their corporate capacity; the mayor of the city of Natchez shall, *ex officio*, be president; but in his absence, a president *pro tempore*, may be elected. The said president and trustees shall have power from time to time, to fill up all vacancies that may happen in the said corporation, by the election of suitable persons as successors; they shall have power and authority to determine the time and place of their meetings, and the manner of notifying the same.

3. **Sect. IV.** The said president and trustees shall elect from their own body a treasurer, who shall give bond and security to the said corporation, in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office, and for rendering a just and true account of all monies, securities and property of every kind, coming into his possession as treasurer, when, and as often as there to required. All deeds, signed and delivered by the said treasurer, by order of the said president and trustees, sealed with their seal, shall, when made in their corporate name, be considered in law as the deed of the said corporation. All monies, securities and other property of the said president and trustees, coming into the hands of the said treasurer, together with all books in which his accounts as treasurer are entered and kept, and all papers and vouchers thereto appertaining, that may be in his hands at the expiration of his office, shall, on demand of him, his executors or administrators, be paid and delivered over to his successors. All monies recovered on the treasurer's bond shall be paid to the president and trustees, for the uses, and subject to the appropriations aforesaid.

4. **Sect. V.** The said president and trustees shall have power and authority from time to time, and at all times hereafter, to employ physicians and surgeons to attend the said hospital, with such powers, and under such regulations as the said president and trustees shall deem expedient: *Provided*, That such physicians and surgeons shall be of the city of Natchez, so long as the medical faculty in that place will attend the institution gratis. The said president and trustees shall have power and authority to elect and appoint managers, overseers, or stewards of the said hospital: and all necessary officers and servants; to declare the tenures, salaries, emoluments and duties of officers; to determine the mode of ascertaining what description of persons or patients are entitled to admission into the said hospital, and to benefits of the institution, gratis: what description of persons or patients shall be admitted on terms of compensation, and the quantum thereof: to make and ordain all reasonable rules, ordinances and by-laws, not repugnant to the ordinances and laws of this territory, with reasonable penalties for the good government of the said institution.

5. **Sect. VI.** The said president and trustees be, and they are hereby empowered, to erect and keep in repair, one or more house or

houses, for a hospital, and such other buildings, as they may deem necessary for the said institution.

6. Sect. VII. The legislature of this territory may grant any further powers to, or alter, limit, annul or restrain any of the powers by this act vested in the said corporation, as shall be judged necessary to promote the benevolent objects and best interest of the said institution.

ACT of December 3, 1810. (Stat. p. 30.)

7. Sect. I. The trustees incorporated by the above recited act shall hold a meeting on the second Monday in December next, and annually afterwards at the old court-house in said city, or such other place as they may appoint, and elect by ballot from among their own number, a president, who shall hold his appointment during one year, and whose duty it shall be to preside and keep order at all meetings of the said trustees; and in case of the death or resignation of the said president, said trustees are hereby authorised and empowered to elect a successor.

* * *

NATCHEZ MECHANICAL SOCIETY.

Incorporated, powers, &c. 1
To make by-laws 2
This a public act, &c. 3

ACT of March 3, 1809. (Stat. p. 16.)

1. Sect. I. Walter Irvine, Timothy Terrel, Samuel Patterson, Matthew Thomas, James Bracken, Andrew Burt, John Conn, Daniel Woodward, Joshua Swaby, Francis Allder, Samuel Batchellor, William Fox, junr. W. H. Beaumont, John Shaw, William Fox, Michael Engel, Samuel D. Purviance, William T. Voss, William Whitehead, James Gormly, Philip Hill, Andrew Marschalk, Elijah Glasscock, John W. Winn, Henry M'Neill, Robert Fox, James M'Connell, Richard Sterne, Charles M'Elheny, Holam Eldridge, members of the Natchez Mechanical Society, and such other persons as shall from time to time hereafter become members of the same according to the constitution and laws thereof, as the same may have been and shall herafter be ordained or enacted, shall be, and they are hereby constituted and declared to be one body corporate and politic in fact and name, by the title and style of "The Natchez Mechanical Society;" and by that name they and their successors shall have perpetual succession; they shall have a common seal, which they may change at their pleasure;

by the name aforesaid, they and their successors shall be capable in law to purchase, take, receive, hold and enjoy to the use of them and their successors, all manner of real and personal estate, and the same to lease, release, sell, alien and convey at their pleasure; by the same name they and their successors shall be capable and liable in law of suing and being sued, pleading and being impleaded, in all manner of actions, suits and controversies in law, equity, or otherwise, as far as corporations from their nature may be capable and liable according to the usual course of law.

2. Sect. II. The said society shall be governed by such constitution, by-laws and resolutions, as may have already been, and shall hereafter be ordained, enacted, made or passed for that purpose, in and by the said society: *Provided*, That such constitution, by-laws and resolutions be not repugnant to the constitution of the United States, or the ordinance or laws of this territory, or of such state as may hereafter be erected.

3. Sect. III. This act shall be deemed a public act, and recognized in all the courts of this territory, and it may be given in evidence on the trial of any issue, or otherwise, in any cause without being specially pleaded.

NOTARIES PUBLIC.

To be appointed by governor, for each county	1
To administer oaths	2
General duties	ib.
To keep fair registers, and grant copies	ib.
In case of death, books and papers to be deposited in office of clerk of county court	3
To have public seal, arms and legend	4
To take oath, and give bond, &c.	5

ACT of February 10, 1803, revised February 10, 1807. (Dig. p. 405.)

1. Sect. I. The governor shall appoint and commission a competent number of persons of known good character, integrity and abilities as notaries public of this territory; to reside at such place or places within the same, as the governor shall in, and by their respective commissions direct: *Provided*, That there shall not be more than two notaries appointed and commissioned to reside in any one county in this territory.

2. Sect. II. The said notaries so commissioned as aforesaid, and every of them, shall have the power of administering oaths and affirmations, according to law, in all matters belonging or incident to their

notarial office: and all and every person that shall be legally convicted of having knowingly and wilfully made or taken a false oath or affirmation, before any notary, in any matter within his official duty, shall suffer the pains and penalties of wilful and corrupt perjury.

SECT. III. The said notaries, and every of them, shall have the power to receive the proof or acknowledgment of all instruments of writing relating to commerce or navigation; such as bills of sale, bottomries, mortgages and hypothecations of ships, vessels or boats, charter parties of affreightment, letters of attorney, and such other writings as are commonly proved or acknowledged before notaries within the United States; and also to make declarations, and testify the truth thereof, under their seal of office, concerning all matters by them done in their respective offices.

SECT. IV. Every of them, the said notaries shall keep fair registers of all official acts by them done in virtue of their office; and shall when thereunto required, give a certified copy of any record in his office, unto any person applying for the same; such person paying the legal fees for such certified copy.

3. SECT. V. In case of the death, resignation, disqualification or removal of any of the said notaries, his registers and other public papers shall be lodged within thirty days next after such death, resignation, disqualification or removal, in the office of the clerk of the county court, of the particular county where he resided; and the said clerk may bring and maintain an action of trover and detinue for the same: such registers or public papers shall not in any case be liable to be seized, attached or taken in execution for debt, or for any demand whatever.

4. SECT. VI. Every notary shall provide a public notarial seal, with which he shall authenticate all his acts, instruments and attestations: on which seal shall be engraved the arms of this territory; and shall have for legend the name, surname, and office of the notary using the same; and the place of his residence.

5. SECT. VII. Every notary, on his appointment, and before he enters on the duties of his office, shall take and subscribe an oath or affirmation, that he "will well and truly perform the duties of his office; and also, that he will support the constitution of the United States and the ordinance of this territory." He also shall give a bond, himself in a sum not exceeding two thousand dollars; and two sureties, in a sum not exceeding one thousand dollars each; conditioned for the faithful performance of the duties of his office. The amount of the said bond to be determined by the governor; which obligation shall be recorded in the office of the clerk of the county court, within the county where the said notary may reside; and may be sued by any party or parties injured in like manner, and with like effect as bonds given by sheriffs and coroners, for the faithful execution of their respective offices.

PATROLS.

Who liable to perform patrol duty . 1
Captains of militia companies to regulate patrols 2
Duties and powers of patrols . . 3
Privileges of patrols, when sued . 4
May kill dogs kept by slaves, &c. 5
Slaves eight miles from home without pass, to be considered a runaway 6
Who liable to perform patrol duty, and duty of militia captains herein . 7
Patrol leaders to give notice, &c. . . 8
To return defaulters, to be sued, &c. 9
Penalty for neglect of duties . 10
Who may be witnesses . . ib.
Patrols how detailed . . 11
Repealing section 12
Patrol leaders how appointed, and their liability 13
Penalty on patrols failing in their duty 14

ACT of December 5, 1809. (Stat p. 23.)

1. Sect. I. Every owner of slaves, and all other persons below the rank of captain, liable to perform militia duty, are hereby declared liable to perform patrol duty, as hereinafter directed, but shall be at liberty to send a substitue to perform the said duty in their stead.

2. Sect. II. It shall be the duty of each and every captain of militia, or commanding officer of a company to regulate patrols within their own companies, or district, by making at every company muster of their respective companies, by rotation, a proper list of patrol detachments, and appoint to every such detachment a leader or proper officer; which detachment shall severally consist of three men, beside their leader, and perform the duties of patrols, once in every two weeks or oftener if ordered by the commanding officer of their company, for the space of three months, or until the next company muster within the district to which they belong. *Provided*, no one shall be compelled to serve out of his regular routine of duty.

3. Sect. III. It shall be the duty of each patrol detachment, to visit all negro quarters, or places suspected of entertaining unlawful assemblies of slaves, or other disorderly persons unlawfully assembled; and upon finding thereof, to take him, her or them, if free, before the nearest justice of the peace of such county, or make report thereof to him, so that he, she or they may be dealt with according to law; and if any slave or slaves shall be found so assembled, or strolling without a pass, or some token from his or her owner or overseer, the said patrol may give any such slave, any number of lashes not exceeding fifteen, and if there be reason to suspect any such slave or slaves, to be run away from his or her owner, they shall take such slave or slaves before the nearest justice of the peace for such county, to be dealt with according to law, and be allowed and paid by the owner for all run away

negroes so taken up, the sum of six dollars, and shall also be entitled to receive all other fines to which parties may be subject, which they may bring before any justice.

SECT. IV and V. *Repealed Decembr* 18, 1812.

4. SECT. VI. If any captain or commanding officer, constable, patrolman or other person, shall be sued, arrested or impleaded, for any matter or thing which he snall do or cause to be done, by virtue of, or in pursuance of this act, it shall and may be lawful for every such captain or other officer or person, to plead the general issue, and give this act and the special matter in evidence on the trial, and if a verdict shall pass against the plaintiff, or plaintiffs or if they shall be nonsuited in his or their action or suit, then, and in that case, the court where such action shall be pending, shall tax and allow to the defendant his or their double cost in every such suit or action.

5. SECT. IX. Patrols and all other persons are hereby authorised to kill all dogs owned or kept by negroes; and all masters or owners who may allow any slave to keep stock of any description, in his or her own right, shall be subject to a penalty not exceeding fifty dollars, recoverable before any court of competent jurisdiction, one half to the informer, and the other half to be paid over to the county court, to be appropriated to county purposes.

6. SECT. X. All slaves who shall be found at the distance of eight miles, without a pass or some token from the owner or overseer of such slave, or have lain out more than two days from the service of his master or overseer, without leave, shall be considered a runaway, any law to the contrary notwithstanding.

Act of December 18, 1812. (Stat. p. 42.)

7. SECT. I. It shall be the duty of every militia captain, or commanding officer of a company, within this territory, to cause to be made, as soon as may be after the passing of this act, a complete list of all male persons within his district, liable, by the first section of the act to which this is an amendment, to perform patrol duty; including in the said list, every person liable as aforesaid, whether belonging to the militia company under his command, or to any other militia or volunteer company, and in the said list the said captain shall cause to be included every person liable as aforesaid who shall come to reside within his district, within ten days after such person shall so come to reside therein.

8. SECT. II. The leader of every patrol detachment, shall give notice to every person appointed of his detachment, of the time and place of meeting for the said detachment to patrol, and every such person who, after such notice, or after other information of the said time and

place of meeting, shall fail to attend or send a substitute in his stead, or shall after attendance neglect a faithful performance of patrol duty, shall forfeit and pay the sum of five dollars; one half whereof, shall, when recovered, accrue to the said leader, and the other half to the other persons who shall have performed patrol duty in the detachment wherein the default shall have occurred.

9. Sect. III. It shall be the duty of the leader of every patrol detachment, to forthwith return to the nearest or most convenient justice of the peace, the name of every defaulter, which said justice shall within ten days thereafter issue his summons, or warrant, requiring such defaulter to appear, or be brought before him, and in case the said defaulter shall not appear, or be brought before him, it shall then be the duty of the said justice on proof of service of the process, and on proof of service of the notice, required by the preceding section, or on proof of other information of the time and place of meeting to patrol, to give judgment, and issue execution against the said defaulter for the said forfeiture: *Provided*, That in case a sufficient excuse be given to the said justice, within ten days after the default made, the said justice shall not issue process against the said defaulter; or if such sufficient excuse be given at the hearing, shall the said justice give judgment against the said defaulter, for the said forfeiture, but the said defaulter shall nevertheless pay costs.

10. Sect. IV. The leader of every patrol detachment, shall for neglecting to give the notice herein before required, or for neglecting to prosecute for the forfeiture, as herein before directed, or for neglecting any other duty required by this act, or the act to which this is an amendment, forfeit the sum of ten dollars, to be recovered before any justice of the peace, one half to the use of the commanding officer of the militia company within whose district the said leader resides, the other half to the use of those persons of the patrol detachment which the said leader was apointed to command, and it is hereby made the duty of the commanding officer, to return to some justice of the peace the name of every such defaulting leader, and the said justice shall proceed against the said defaulting leader, as herein before directed in the case of other defaulters; and if any commanding officer of any militia company shall knowingly neglect for three months to make such return, or shall neglect or omit any other duty by this act required, or the act to which this is an amendment, he shall forfeit twenty dollars, to the use of any person suing for the same.

Sect. V. Any person interested in any of the forfeitures prescribed by this act, or by the act, to which this is an amendment, shall be deemed, and received as a competent witness in any suit for any of the said forfeitures, any law to the contrary notwithstanding.

11. Sect. VI. If the regular muster of any militia company shall not be held, or if from any other cause, patrol detachments, or a suffi-

cient number of them are not appointed, it shall be the duty of the commanding officer of the company to appoint such detachment, or detachments, and inform the leader or leaders thereof; and that patrol detachments appointed by virtue of this act, or the act to which this is an amendment, shall consist of not more than seven, nor less than four persons, including the leader, at the discretion of the commanding officer of the company: *Provided*, That such commanding officer shall not put more than half his company on patrol duty, without orders from the commanding officer of the regiment or battalion to which he belongs.

12. Sect. VII. The fourth and fifth sections of the act to which this is an amendment, and all other acts and parts of acts coming within the purview and meaning of this act, shall be and the same are hereby repealed.

13. Sect. VIII. It shall be the duty of commanding officers of companies to appoint leaders of patrols from the most discreet persons within their bounds, which leaders shall be accountable for the orderly conduct of their detachment: *Provided*, That if he shall forthwith report any disorderly conduct or disobedience of any patrol-man of his detachment to the nearest justice of the peace, he shall be no further accountable.

14. Sect. IX. If any patrol-man shall disobey the orders of his leader when on duty, or otherwise behave disorderly, he shall be fined by the judgment of a justice of the peace, in a sum not exceeding ten dollars; which, when recovered, shall accrue to the leader and the other patrolmen of the detachment, in the proportion provided for other fines, and such disobedient or disorderly patrol-man shall be moreover liable to pay any damages which may happen to any individual in consequence of his disorderly conduct, to be recovered before any court having jurisdiction.

PARTITION.

Among whom it may be made, by whom, and in what manner . 1
Commissioners, how appointed, shares to be designated 2
Commissioners to take oath . . 3
In what manner to proceed . . 4
To appoint surveyors, &c. and swear them . . . . ib.
To number lots, &c. keep account of expenses, &c. to give notice, &c. 5
Commissioners may or may not require judge or justice to attend drawing 6
May summon witnesses, papers, *&c.* 7
To make return to judge or justice, *&c.* 8
Compensation to officers . . 9
Vacancies how filled . . 10
Expenses how to be paid . 11
Proviso, saving legal claims . 12

ACT of March 4, 1803. (Dig. p. 252.)

1. Sect. I. Any person being a coparcener, joint tenant, or tenant in common, in any tract or tracts of land within this territory, may at any time apply to any one or more of the judges of the superior courts of this territory, or to any three or more of the justices of the county court, wherein such lands may lie, for a partition of such tract or tracts of land; whereupon the said judge, or justices shall ascertain the number of equal shares or parts, in which such tract or tracts were, or (at the time of such application) are held by the original coparceners, joint tenants, or tenants in common; and shall nominate three persons, not interested in the said land, as commissioners, to make partition of such tract or tracts, into as many parts or shares, as the same was originally held; and the said judge or judges, or justices, shall thereupon order an advertisement to be inserted in one of the public newspapers of this territory, and in any such other public newspapers or places as the judge, judges or justices shall direct, for six weeks successively, to the following or like effect; he or they making such alterations or additions as the nature of the case may require:

By   esquire, chief judge (or judges) of the superior courts of the Mississippi territory, or justices of the county court of the county of   , notice is hereby given, that on application to me (or us) by   , of   ; who claims an undivided   part of all that tract of land, (giving a description of the tract or tracts intended to be divided) I, (or we) have nominated A, B, C, D, and E, F, commissioners to divide the said tract or tracts of land, into equal shares or parts, and unless proper objections are stated to me, (or us) at   , on the   of   next, (which is to be at least two months from the date of the notice) the said A, B, C, D, and E, F, will then be appointed commissioners, to make partition of the said lands, pursuant to an act entitled, "an act for the more easy partition of lands held by coparceners, joint tenants, and tenants in common;" passed the 4th day of March, 1803. Given under our hands, this   day of

2. Sect. II. If no objections are made before the said judge or judges, or justices, on the day appointed by him or them, for the purpose, to the persons nominated as commissioners, then the said judge or judges, or justices, shall in writing under his or their hands and seals, appoint the persons so nominated to be commissioners, to divide the said land pursuant to the directions prescribed in this act; and the judge or judges, or justices, shall in the said writing describe the tract or tracts to be divided, and direct the number of parts of shares into which the same is to be allotted; but if objections are made to the persons nominated as commissioners, or any of them, the said judge or judges, or justices, shall then proceed to hear and determine such objections; and in case he or they find them well founded,

then to appoint under his or their hands and seals, other fit and disinterested persons, in the room of those he or they may think proper to remove.

3. Sect. III. The commissioners so appointed, before they proceed to the execution of the powers and authority vested in them by this act, shall be severally sworn or affirmed, before one of the judges of the superior court, or any justice of the county court, that they will honestly, faithfully, and impartially make the partition intended, and perform the trust, duties and services required of them by this act, to the best of their skill, knowledge and judgment.

4. Sect. IV. The commissioners shall cause a survey to be made in their presence, of the tract or tracts to be divided, and shall then proceed to divide the same into the number of parts or shares directed by the said judge or judges, or justices, in the writing containing their appointment; each part or share to contain one or more lots, as the commissioners may think proper; they having due regard in the partition, to the situation, quantity, quality and advantages, of each part or share, so that they may be equal in value, as nearly as may be; and if the bounds of any tract or tracts so to be divided shall be controverted, the commissioners are hereby directed, if such controverted part is valuable, to separate the same from the incontroverted part, and make partition of the tract or tracts, in such manner, that a proportion of the controverted part may be allotted to each share, as well as a portion of the incontroverted part. And the said commissioners, previous to the said survey, shall administer an oath or affirmation to the surveyor and chain-bearers, that they will well and truly perform their respective duties, honestly and impartially; which oath, or affirmation, any one of the said commissioners is hereby empowered to administer.

5. Sect. V. The said commissioners shall number the several parts or shares, by them laid off; from number one progressively; and shall in the same manner number each lot, in the several shares, if the same contain more than one lot; and shall make a true field-book specifying the bounds and numbers of each lot; and also a map or maps of the tract or tracts, on which the several shares or lots shall be laid down and numbered: and shall keep an exact and particular account of their time expended in the execution of the duties of this act; and of the money due for the same; and also of all expenses accruing for surveying, or otherwise; agreeably to the directions of this act. And the said commissioners shall thereupon give notice by advertisement, in manner abovesaid, for three weeks successively, that on a certain day, by them named, not less than one month, from the date of such notification, attendance will be given, at a place therein named, and an allotment by ballot, take place, of the several parts or shares, of the tract or tracts, therein described, to the original coparceners, joint-tenants and tenants in common, their heirs or assigns.

6. Sect. VI. On application made to the said judge or judges, or justices, by any one of the parties, to the partition intended to be made, the said judge or judges, or justices, shall attend at the time and place specified in the advertisement of the commissioners, and shall, with the assistance of the said commissioners, proceed to allot the several parts or shares of the tract or tracts intended to be divided in the manner hereinafter to be described. But if no application shall be made to the said judge or judges, or justices, for his or their attendance, then the said commissioners shall on the day appointed for the purpose, proceed in a public manner, to number as many tickets as there are shares of land, marked on the map; which shall be put in a box, and the names of the original coparceners, joint-tenants or tenants or tenants in common, shall be put in separate tickets, into another box; when a person appointed by the said judge or judges, or justices, or commissioners, shall proceed to draw a ticket of the names, and then a ticket of the numbers, and so proceed, until all the tickets are drawn; and the share on the map bearing the number of the ticket drawn, next after drawing the ticket with the name, shall be the separate and divided share of that original coparcener, joint-tenant or tenant in common, his or her heirs or assigns, in the land so divided; of which balloting the said judge, or judges or justices, or commissioners, shall make a full and ample certificate, under his or their hands and seals; specifying particularly, the time, place, and manner of balloting, and the said allotment of the shares.

7. Sect. VII. The said judge, or judges, or justices, of the said commissioners, are hereby authorised, as the case may require, to issue his or their precept, or precepts; under his or their hands and seals; commanding such person or persons, who are able to give any necessary information, to come before him or them; when and where he or they may direct; to testify, by an oath or affirmation, such acts, matters, or things, as it may be necessary for the said judge, or judges or justices, or commissioners, to investigate in execution of the trust, duties and services required of them by this act; and to bring with him or them, all such patents, surveys, maps, records, deeds; or other writings, as may be necessary to be examined, by the said judge or judges, or justices, or commissioners.

8. Sect. VIII. The commissioners shall transmit the writing, containing their appointment, and their oath, or affirmation of office, properly certified by the person administering the same: and the map and field; and also their accounts, to the judge or judges, or justices, from whom they received their appointment; or in case of their death, resignation or removal, then to any other judge or judges, or justices of the same court, who, after inspecting the same, shall order the said instruments, excepting the account of expences, to be recorded in the clerk's office of the superior court; or in the clerk's office of the county court, in which the lands lie; which shall be good evidence of such partition, and which partition shall be as valid and effectual in

law, to divide and separate the said lands, as if the same had been made on writs of partition, according to the course of the common law.

9. SECT. IX. The said judge or judges shall be allowed for the services required by this act, at the rate of two dollars and fifty cents; and said justices, at the rate of two dollars a day each; while employed in the said business; and the said commissioners at the rate of two dollars a day each; and the said surveyor, at the rate of four dollars a day; and the chain-bearers and witnesses, at the rate of one dollar a day each.

10. SECT. X. In case of the death, resignation, neglect or refusal, of any of the commissioners to be appointed, by virtue of this act, before the trust, duties and services, hereby required of them, shall be completed, that then the said judge or judges, or justices; or in case of his or their death, resignation or removal, any other of the judges or justices, shall by writing under his or their hands and seals, appoint another commissioner or commissioners; who shall be vested with the like powers and authority, as if he or they had been originally appointed.

11. SECT. XI. After the said judge or judges, or justices, shall have ascertained the whole expence of such partition, he or they shall divide the same among the several parts or shares: which shall be paid by the persons to whom such shares were allotted, their heirs or assigns, within four weeks after the same shall be ascertained—Or, in default of payment of such expence, the said judge or judges, or justices, are hereby authorised, where no other property is to be found, to direct a sale to be made by the commissioners, of so much of those parts, or shares, deficient in paying the expences, as will be sufficient to pay their respective proportion thereof: together with the expences accruing on such sale. And the said judge or judges, or justices, shall direct the same to be sold by the said commissioners, at public auction to the highest bidder, whereof four weeks notice shall be previously given, in one of the said newspapers, and at three of the most public places in the county in which the land lies. And the said commissioners' deed to the purchaser shall pass as good a title for the separate enjoyment of the same, as if all the arrears and claimants of shares of the entire tract, divided, had joined therein.

12. SECT. XII. Nothing in this act contained shall be so construed as to tend to injure, prejudice, defeat or destroy the estate, right or title of any person or persons, claiming such tract or tracts of land, or any part thereof, or any thing therein, by title, under any other person or persons, or by title paramount or superior to the title of such coparceners, joint tenants, or tenants in common, among whom partition is to be made.

POOR.

Children of criminals to be bound out 1
Overseers of, to be appointed by county courts 2
Their duty 3
Poor may appeal to county court . 4
Each county to support its own poor 5
Disputes between counties, how settled 6
Poor orphans to be reported to county courts and bound out, &c. 7
Corporate towns to support their poor 8
Certain paupers to be supported by relatives 9
Penalty for bringing infants, lunatics, &c. into this territory . . 10
Male orphans to be bound apprentices until 21 years of age . 11

ACT of February 10, 1807. (Dig. p. 335.)

1. Sect. XIV. Whenever on any criminal prosecution, it shall appear to the satisfaction of the court, that there can be no reasonable expectation that the family of the prisoner will be brought up in honest courses, it shall be the duty of such court to certify the same to the overseers of the poor for the district in which such family may reside, provided the same be within the limits of the jurisdiction of such court; and the said overseers shall thereupon bind out the children of such person, to honest, respectable and virtuous citizens, for the same periods of time and under the same conditions for their instruction and maintenance, as in other cases of orphans and poor children, and return the indentures to the next county court, and likewise certify to the said superior court their doings therein.

ACT of March 10, 1803, and December 18, 1804, revised and amended February 10, 1807. (Dig. p. 417.)

2. Sect. I. It shall be the duty of the justices of the county courts, in their respective counties, at their first courts, which shall be held after the passing of this act, and yearly thereafter to appoint one or more overseers of the poor in each captain's district, to serve for the term of one whole year, or until another overseer shall be appointed; and any person so appointed, who shall refuse or neglect to serve as overseer of the poor, unless disqualified by age or infirmity, of which the justices shall judge, shall forfeit and pay fifty dollars; to be recovered with costs, by action of debt, in any court having competent jurisdiction, for the use of the county.

Provided, That no person holding any office or employment under the government, shall be compelled to serve as overseer of the poor, so long as he holds the same. In case of the refusal or inability of any person to serve as overseer of the poor, it shall be lawful for any three justices, during the vacation of the county court, to appoint a new overseer of the poor, for the remainder of the year, in room of the said person, unable or refusing to serve; which said new overseer shall be subjected to the same duties and penalties which were obligatory upon the person appointed overseer by the county court; and every overseer so nominated and appointed, shall immediately after his nomination, take an oath, or affirmation, respectively, according to law, before any judge or justice, that he will discharge the duties of overseer of the poor truly, faithfully and impartially, to the best of his knowledge and ability.

3. **Sect. II.** It shall be the duty of the overseers of the poor, each in his respective district, to provide for the indigent, lame, blind, and others not able to maintain themselves; and may also provide houses, nurses, physicians, in such cases as they shall think necessary; the expenses of which shall be provided for in the annual county levy; and it shall be lawful for the overseers of the poor to contract with any person or persons for keeping, maintaining and employing any, or all such poor persons, and take the benefit of their work, labor or service, towards their maintenance and support. If any poor person shall refuse to be lodged, kept, maintained and employed in such manner as the overseer shall direct, he or she shall be struck off from the overseer's list, and shall not be entitled to receive relief from the overseers during such refusal. The said overseers shall make fair entries in a book of the names of all the poor within their respective districts, with the time when each of them became chargeable, together with the amount of all charges, costs and expenses incurred, under the direction of the said overseers. Which books and accounts they shall be obliged to present twice in every year, for the inspection of the justices assembled in their county courts. And if the said justices shall approve the accounts of any such overseers, they shall issue a certificate to that effect, directing the county treasurer to pay the amount thereof to such person or persons to whom the same may be lawfully due.

4. **Sect. III.** If any poor person shall suppose, that he or she is entitled to the benefit of the laws for the relief of the poor, which may have been refused by the overseer, such person may apply to the county court, or during the recess, to any two justices, who are authorised, if they shall think proper, to direct the overseer to receive him or her upon the list of the poor; which overseer is bound to yield obedience to the directions of the said court or justices.

5. **Sect. IV.** The overseers shall take measures to prevent the poor from strolling from one district into another, and may make complaint before any justice, that any poor person is come into their county, and is likely to become chargeable thereto, whereupon it shall be lawful for such justice, by warrant under his hand, to cause such poor person to be removed to the county where he or she was last settled. *Provided*, That such poor person hath not been resident for six months last past in the county from which it is proposed to remove him or her. But if such poor person be sick or disabled, and cannot be

removed without danger of life, the overseer shall provide for his or her maintenance and cure, at the charge of his or her county; and after recovery, shall cause him or her to be removed: and the county wherein he or she was legally settled, shall repay all charges occasioned by the sickness, maintenance and cure of such poor person, and for removing him or her; and also all charges or expenses if such person shall die before removal; and it shall be the duty of the overseer of the district to which the person belongs, to receive and provide for the person or persons so removed; and in case of refusal, the said person or persons may apply to any two justices of the county for relief, as herein before directed. The overseer who shall have made the disbursement, being furnished with a certificate of the said expenditure, by the justices of the county court of his proper county, shall apply to the justices of the county court to which the said poor person or persons shall belong. Which said justices last mentioned, are hereby directed to draw an order on the treasurer of their proper county for the reimbursement of the said expenses.

6. Sect. V. Where any dispute shall arise respecting the residence of any poor person, the court of any county adjacent, and not interested, is authorised to take cognizance thereof, and determine the same.

7. Sect. VI. The overseers of the poor shall make returns to the county courts, twice a year, of the poor orphans in their districts, and of such children within the same; whose parents they shall judge incapable of supporting them, and bringing them up in honest ways.—The said courts are hereby authorised to direct the said overseers, or either of them, to bind out such poor orphans and children apprentices, to such person or persons whom the court shall approve; until the age of eighteen years, if a male: or sixteen years, if a female.—The person to whom such apprentice shall be bound, shall engage by a covenant, to be entered in the indenture, to provide the apprentice with a sufficiency of good and wholesome provisions, necessary clothing, washing and lodging; to teach the said apprentice the business or occupation which he pursues for a livelihood: and also to read, write and cypher, as far as the rule of three; and at the expiration of the said apprenticeship, to furnish the said apprentice with one complete new suit of clothing, and two shirts: if a female, one complete new suit of cloths and two shifts.

It shall be lawful for the said court, upon the complaint of the overseers of the poor, or of any apprentice, by themselves, or friends, against their masters or mistresses, to hear and determine; and if it shall appear to the satisfaction of the court, that such complaint be well founded, and of sufficient magnitude to make a removal necessary, the court shall have power to remove such apprentice, and bind him or her to such other person as they shall think proper.

8. Sect. VII. Any corporate town, which may now or hereafter exist within this territory, is hereby empowered and required to pro-

vide for and maintain the poor within the limits of their said town, separately and distinctly from the poor of the county; and any two magistrates of any corporation court, are hereby empowered by a warrant under their hands, to cause to be removed any poor person to the place of his or her legal residence, who hath not been resident within the limits of such town for six months last past, before such removal: and in like manner the overseers of the poor within the county may apply to any justice, who is hereby authorised and required, by warrant under his hand, to cause to be removed into any corporate town, any poor person, who shall have left his usual residence in such town, and gone into the county; and the corporations of the said town are hereby empowered by a poll-tax, or by a tax on property, to levy and assess annually, upon their respective towns, all charges incurred for the support and maintenance of their poor.

9. Sect. VIII. The father and grandfather, the mother and grandmother, and the descendants of any poor, old, blind, lame, and impotent person, or other person not able to work, being of sufficient ability, shall at their own charge, relieve and maintain every such poor person, as the justices shall direct at their next county court, in their respective counties, or the corporation courts in their respective towns, on pain of forfeiting eight dollars for each month they shall fail therein.

10. Sect. IX. If any person commanding a ship, vessel or boat, shall import into this territory, or bring to the shores thereof, any infant, lunatic, maimed, aged, infirm person, or vagrant, who may be judged to become likely to be chargable to the territory, it shall be lawful for any justice of the county court, or for any magistrate of a corporation court, to compel such person commanding such vessel, to give sufficient security to indemnify the inhabitants of this territory from any charge that may come, or be brought upon them by such infant, lunatic, maimed, aged, infirm or vagrant person, coming into, or living within this territory, or otherwise to transport such person beyond the limits of this territory.

ACT of December 18, 1809. (Stat. p. 48.)

11. Sect. I. So much of the sixth section of the act "for the settlement and relief of the poor," as forbids the binding of male orphan children apprentices, for a longer time than till they are of the age of eighteen years, be, and the same is hereby repealed; and that hereafter it shall be the duty of the overseers of the poor, by order of the court, to bind out all male orphan children until they arrive at the age of twenty-one years, according to the directions of the said act.

PRESBYTERIAN CHURCH.

President and trustees authorised to raise money by Lottery	1
To collect donations and register the names of donors	ib.

ACT of December 27, 1815. (Stat. p. 79.)

1. SECT. I. As the first Presbyterian church in the city of Natchez has been so far built by the voluntary contributions of piously disposed citizens, and as the amount of these contributions have not been quite sufficient to pay the person who contracted to build the same, the president and trustees are hereby authorised to raise by lottery a sum not exceeding five thousand dollars for the purpose of enabling the trustees to pay the contractor in full, inclose, level and improve the church lot, complete the steeple and to do and complete whatever may yet be undone in and about the said church. The trustees shall be authorised to collect and receive donations from the piously disposed citizens of the territory and elsewhere, and the names of such donors, as well as the names of all former donors, with the amount of their donations annexed, shall be fairly inscribed in a book kept for that purpose, and shall be carefully preserved among the archeves of the church, that posterity may know who were the benefactors of this religious association.

* * *

PRISONS AND PRISONERS.

Sheriff may employ guards	1
Jailor to return names of prisoners to court	2
Process, &c. to be filed by sheriff or jailor	3
Duty of county court to enquire each term into state of prison—treatment of prisoners	4
Prisoner may furnish his own support	ib.
In civil cases, shall do it, &c.	ib.
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Court to pass on jailor's accounts—what fees allowed	ib.
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Runaway slaves may be sold for jail charges	8
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Expenses of keeping prisoners, guards, &c. to be a county charge	9
Repealing section	10
Prison bounds, who to have benefit of	11
Prisoners may be commited to next county having a jail	12
Guards, their compensation—how paid	13

ACT of February 6, 1807. (Dig. p. 337.)

1. Sect. I. When any person or persons, accused of treason, felony or other crime or misdemeanor, shall be committed to the jail of any county in this territory, and the sheriff shall have cause to suspect such person or persons will attempt to escape, such sheriff is hereby empowered and required to apply to any justice of the quorum of the county where such person or persons may be confined, who shall, on such application, issue his warrant, directed to the said sheriff, for a sufficient guard for securing such prisoner or prisoners, so long as he, she, or they, continue in said jail; to be paid by the public, after the rate of fifty cents for each man per day.

ACT of February 10, 1807, (Dig. p. 335.)

2. Sect. XIII. It shall be the duty of every sheriff and other person having authority or power of keeping a jail, or of prisoners for felony, to certify the names of all such prisoners in his keeping and of every prisoner to him committed for any criminal offence, at the next court having cognizance thereof, there to be be calendered before the judges for the deliverance of the said jail, whereby they may proceed to make deliverance of such prisoners according to law.

ACT of February 10, 1807. (Dig. p. 215.)

3. Sect. I. All warrants, mittimuses, writs, process, or precepts of any kind, or the attested copies thereof, by which any prisoner may be committed to or enlarged from any jail in this territory, shall be regularly filed in their order of time, and safely kept by the sheriff, or keeper of the jail, under his direction; and upon the death, removal, or resignation of any sheriff, all said warrants, mittimuses, writs, process and precepts, or copies thereof, filed and kept as aforesaid, shall be delivered over to his successor in office, on demand by him made, under the penalty of three hundred dollars; to be recovered of the sheriff so resigned or removed, or his executors or administrators, in case of his death; one half to the use of the person suing for the same, and the other half to the use of the proper county.

4. Sect. II. It shall be the duty of the justices of the county court, at the beginning of every stated court, to enquire into the state of the prisons in their respective counties, with regard to the sufficiency of such prisons, the condition and accommodation of the prisoners; and they shall from time to time take such legal measures as may best tend to secure the prisoners from escape, sickness and infection: and to have the jails cleansed from filth and vermin: and the sheriff shall keep separate rooms for the sexes, except where they are lawfully married; and be responsible that his jailer at all times provide proper meat and drink for all criminals committed to the jail of the county, if such prisoner have no other convenient way of supplying themselves with

provisions, which shall always pass to them through the hands of the keeper.

Every person committed to prison in a civil case, or for a criminal offence, may furnish his or her own support and maintenance; and the sheriff or jailer shall admit any person who will administer to the wants of such prisoner, to furnish him or her with necessary support and maintenance; in such manner, however, as not to aid any escape, or endanger the security of the prison.

Any person imprisoned in a civil or *qui tam* action, shall furnish his or her own sustenance, or pay the jailer fees for the same until lawfully discharged, and when any pirsoner shall be committed to jail in a civil action, as aforesaid, and shall provide for his or her own support, in any way wherein the sheriff or jailer shall have no concern, it shall be the duty of the jailer, or prison keeper, to admit to the wicket grates, or small window of the prison, in which such prisoner shall be confined, any person who may come to administer to the wants of such prisoner, by furnishing him or her with meat or drink; which shall be conveyed through such window or grate, that the security of the prison be not too frequently exposed by opening the doors thereof.

5. Sect. III. Every person confined for a criminal offence, who may be unable to support him or herself in prison, shall be supplied by the sheriff or jailer, under his direction, with daily sustenance; and in case of conviction and inability to discharge the fees for sustenance; or in case of acquittal, and the fees be not taxed on the prosecutor, the same shall be discharged by the territory; and the auditor of public accounts shall draw a warrant in favor of said sheriff, or jailer, therefor, on the certificate of the court, having cognizance of the offence, or supposed offence, for which such prisoner was confined, that the said sheriff or jailer is entitled thereto: and no fees, expenses, or perquisites, whatever, except what are or may be set down, and allowed by law, shall be taken or received of a prisoner, or charged against the territory.

6. Sect. IV. No sheriff, jailer, or person having the care or keeping of any jail, shall sell or dispose of, to any person or persons under arrest or in prison, any wine, rum, brandy, whiskey, or other strong or intoxicating liquor, under the penalty of twenty dollars for each offence; to be recovered before any magistrate of the proper county, one half to the person suing for the same, and the other half to the use of the county.

7. Sect V. A jail-yard, or limits to any prison may be laid out and surveyed, adjoining and appertaining to said prison, not exceeding ten acres of ground: which said limits or prison bounds shall be fixed and ascertained by the county court in each county, and entered on record in such court.

Sect. VI. Any prisoner imprisoned in a civil action for debt or damages on original, *mesne*, or final process, shall have the liberty or limits of such jail-yard, on entering into bond and security, as herein after mentioned.

Sect. VII. Any prisoner imprisoned as mentioned in the last preceding section, may enter into a bond, with two sufficient securities, to the plaintiff, in double the sum of the debt or damages for which he is imprisoned; which said bond the sheriff or jailer shall take, with a condition in the form following, to wit: "The condition of the above obligation is such, that if the above bound A. B. a prisoner in the jail of county, at the suit of C. D. do and shall from the date hereof continue a true prisoner in the custody, guard and safe keeping of the keeper of said prison; or of his steward, deputy, or other officer; or of some of them within the limits of said prison as by law established, until he shall be thence discharged by due course of law, without committing any escape in the meantime; then this obligation shall be void, else to remain in full force and virtue." And the sheriff shall be authorised to take said bond on the approbation thereof of any two justices of the county court, or any of the territorial judges: and on condition broken of the said bond, the same may be put in suit, and the debt or damages for which such prisoner was imprisoned, together with ten per cent. interest thereon, from the time of commitment recovered; and the court shall chancer the said bond accordingly.

ACT of December 22, 1809. (Stat. p. 102.)

8. Sect. I. Where any slave is now in the jail of any county, or shall hereafter be committed to the jail of any county within this territory, as a runaway, and such runaway slave shall not be claimed and proved by the owner thereof, within six months from the first publication of the commitment of such slave, in some newspaper published in this territory, it shall be lawful for the sheriff of the proper county to sell said runaway slave at public auction, at the court-house of his proper county, upon giving at least thirty days previous noticc of such sale, by advertisement published in some newspaper in this territory, at the court-house of the proper county, and at least two other public places within the same; and out of the proceeds arising from the sale of any runawry slave as aforesaid, the sheriff shall be entitled to the same commission and fees as are allowed in the case of executions; and the balance, after paying all prison fees, and the maintenance of said runaway slave whilst in jail, shall be for the use of the proper county: *Provided*, That if the owner of such runaway slave shall, after such sale, prove his property in any such slave, the proper county shall pay to him the amount that shall have been paid into the county treasury, on account of the sale of such slave; but the right to any slave sold as aforesaid, shall be and remain vested in the purchaser under the sale made by the sheriff, as aforesaid, any law to the contrary notwithstanding.

ACT of December 14, 1812. (Stat. p. 29.)

9. **Sect.** I. From and after the passage of this act, all expences which may be incurred for guards employed pursuant to the second section of "an act directing the manner of employing proper guards, for the safe keeping of criminals, in the several counties of this territory, and for other purposes," and all and every other legal expense which shall accrue from the want of a good and sufficient jail shall be paid out of the treasury of the proper county, upon the certificate of the clerk of the superior court of such county, that an allowance thereof hath been made by such court.

10. **Sect.** II. So much of the before recited act, and all other acts that come within the purview of this act be, and the same is hereb repealed.

ACT of December 19, 1815. (Stat. p. 46.)

11. **Sect.** I. The twenty-second section of the act, entitled, "an act for the appointment of justices of the peace, and the establishment of county courts," shall not extend to sny person committed to jail by sentence of a court, judge or justice, as a punishment for an offence committed, to have the liberty of the prison bounds; any thing in the act to which this is an amendment to the contrary notwithstanding.

ACT of December 23, 1815. (Stat. p. 66.)

12. **Sect.** I. Hereafter it shall be lawful for any judge, justice of the quorum or justice of the peace, when any person or persons shall be brought before him charged with any criminal offence wherein bail is not admissible, or where such prisoner or prisoners shall neglect or refuse to give security for his, her or their appearance, to commit the said prisoner or prisoners to the nearest jail of some adjacent county, provided there is not a sufficient jail in the county in which the offence was committed, there to be kept until the court shall sit in the proper county, for the trial of such prisoner or prisoners; and it shall be the duty of the jailer to receive any prisoner or prisoners sent from any county in which there is not a sufficient jail for safe keeping, upon the mittimus of any justice of the quorum or peace of the county from which such prisoner or prisoners are sent.

13. **Sect.** II. Whenever it may be deemed expedient to call out a guard for the guarding of any prisoner or prisoners, such guard shall have and receive the sum of one dollar each, for each and every day they may serve, to be allowed by the county court upon the sheriff's certificate, to be paid out of the county treasury where the offence was committed.

PUBLIC OFFICERS.

Secretary to keep office, &c. at place of sessions of general assembly 1
Certain public records, may be demanded by governer—penalty for refusing to deliver them . . . 2
Attorney General to prosecute for disobedience 3
Sheriffs to keep their offices at court houses 4
Clerks also, except of Washington county 5
Penalty for refusing or neglecting 6
The foregoing act suspended . 7
Oath of office prescribed . 8
Before whom taken . . 9
Act requiring clerks and sheriffs to keep their offices at court houses, suspended till offices are provided 10
Clerk of superior court of Madison to keep his office at or within one mile of court house . . 11

ACT of July 16 and 25, and December 28, 1805. Revised February 10, 1807. (Dig. p. 201.)

1. Sect. I. The secretary of the territory for the time being, shall keep the public records and documents belonging to his office, at the place designated by law for the sitting of the general assembly.

2. Sect. II. If any person or persons possessed of any of the records and public documents belonging, or in any manner appertaining to the government of this territory, which by the laws of the United States, and ordinance for the government of this territory, they may not have a right to retain, shall, on the application of the governor of this territory, for the time being; who is hereby authorised to demand and receive the same, refuse to deliver such records and public documents, the person or persons so refusing shall forfeit and pay the sum of three thousand dollars; to be recovered and appropriated as aforesaid.

3. Sect. III. It shall be the duty of the attorney general of this territory, and he is hereby required to prosecute and recover, in the name of the governor for the time being, for the use of the territory, all such sums as may become forfeited under this act.

4. Sect. IV. The sheriffs of the several counties in this territory, shall, after the passing of this act, keep their respective offices at the place designated by law for holding the courts of their respective counties.

5. Sect. V. The several clerks of the county and circuit courts within this territory, except the clerk of the county court of Washington county, shall, from and after the passing of this act, hold and keep their respective offices at the place designated by law for holding the courts of counties respectively.

6. Sect. VI. Should either the sheriffs or clerks mentioned in this act, neglect or refuse to comply with the requisitions of the said act, on or before the first day of February next, he or they so offending, shall forfeit and pay the sum of two thousand dollars, for the use of the territory, recoverable in any court of record within this territory, having competent jurisdiction of the same.

ACT of February 10, 1807. (Dig. p. 203.)

7. Sect. I. The act entitled "An act establishing the place where the officers therein named shall keep their respective offices," passed the twenty-eighth day of December, in the year one thousand eight hundred and five, be and the same is hereby suspended, until the first day of February, in the year one thousand eight hundred and eight.

ACT of February 10, 1807. (Dig. p. 231.)

8. Sect. I. Where no especial oath of office is prescribed by law, every person appointed to any civil office in this territory, and commissioned by the governor, shall previously to his entering upon the exercise of his office, take the following oath: viz. I, A. B. being appointed to the office of , do solemnly swear, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality. So help me God.

And any person appointed as aforesaid, conscientiously scrupulous of taking an oath, shall make the following affirmation, previously to entering upon the duties of his office: viz. I, A. B. being appointed to the office of , do solemnly, sincerely and truly declare and affirm, that I will well and truly execute the duties of my said office according to the best of my skill and understanding, without fraud or partiality; and this I declare and affirm, under the pains and penalty of perjury.

9. Sect. II. All the oaths of office, or declarations and affirmations, prescribed as aforesaid, shall be taken before the governor, or one of the territorial judges or one of the justices of the county court of the county for which such officer may be appointed.

ACT of February 9, 1808. (Stat. p. 4.)

10. Sect. I. The fourth, fifth and sixth sections of the act entitled, "an act establishing the place where the officers therein named shall keep their respective offices," be, and the same are hereby suspended until the first day of February, one thousand eight hundred and nine, and from thence until there shall be proper buildings erected for the reception of the officers therein mentioned.

ACT of December 13, 1815. (Stat. p. 43.)

11. Sect. I. The clerk of the superior court of Madison county shall, from and after the first day of May next, keep his office at or within one mile of the court-house of said county; and in case of his failing or refusing so to do, he shall forfeit and pay for every month of such neglect or refusal, twenty-five dollars, to be recovered upon information before any justice of the quorum of the proper county, for the use of said county.

RENT.

Action on the case for use and occupation . . 1
Common law mode of distress for rent, abolished . 2

ACT of December 18, 1812. (Stat. p. 53.)

1. Sect. I. From and after the passing of this act, it shall and may be lawful for any person or persons to whom any rent may be now due, or hereafter may become due, or the executor or administrator of such person, when the demise is not by deed, or if by deed, not specifying the rent to be paid, to recover a reasonable satisfaction for the tenements occupied by the defendant in an action on the case, for the use and occupancy of what was held or enjoyed, and if on evidence on the trial of such action, any parole demise, reserving certain rent, or a demise by deed, but no rent therein agreed on, in either case the plaintiff in such action, shall not be non-suited, but shall recover a reasonable satisfaction for the tenements occupied.

2. Sect. II. The common law method of distress for rent, be and the same is hereby abolished.

SHERIFFS AND CORONERS.

Sheriffs to take oath and give bond 1
His duties . . . . . ib.
Coroners to take oath and give bond 2
His duties . . . . . ib.
To hold inquests . . . 3
To write down evidence, bind over witnesses, and finable for neglect ib.
Further duties of coroner in arresting those who dangerously wound others, &c. . . . . . . ib.
Justices of the peace, when to act as coroners 4

ACT of February 10, 1807. (Dig. p. 219.)

1. SECT. I. Every sheriff who may be appointed within this territory shall take the oaths of allegiance to the United States, and of office; and shall give bond with two sufficient sureties, in the penal sum of four thousand dollars, for the faithful discharge of the duties of his office.

The duties of a sheriff shall be, to keep the peace, by causing all offenders against law, in his view, to enter into recognizances, with sureties, for keeping the peace, and appearing at the next circuit or superior court, to be holden in the same county, and to commit in case of refusal. Which recognizances shall by the said sheriff be returned and certified before the said court. It shall also be his duty to quell and suppress all affrays, routs, riots, and insurrections; for which end, he shall, and is hereby empowered to call to his aid the power of the county. He shall pursue, apprehend and commit to jail, all felons and traitors; he shall execute all warrants, writs and other process, which by law shall appertain to the duties of his office, and which shall be directed to him by legal authority. He shall duly attend upon all the courts of record, at their respective terms, or sessions, in his county

2. SECT. II. Every coroner, who may be appointed within this territory, shall be sworn to a faithful discharge of his office, and shall give bond in the sum of two thousand dollars, with two sureties, for the due performance of the same, before he enters upon the duties thereof.

And it shall be the duty of the coroner, by a jury of the county, to enquire concerning the death of a person slain, who dies suddenly, or in prison; and his inquisition so taken, he shall certify to the next circuit or superior court, holden within the county.

And it shall be the duty of the coroner to execute process of every kind wherein the sheriff is a party, or interested in the suit; or for other just cause, is by law rendered incapable to execute the same.

And in case the sheriff for any cause shall be committed to jail, the coroner shall by himself, or such person as he shall appoint, be keeper of the jail during the time the sheriff shall remain a prisoner.

3. SECT. III. The coroner, upon information, shall go to the places where any be slain, or suddenly dead, or wounded; and shall forthwith command four freeholders, or housekeepers of the county, or five or six to appear before him in such a place; and when they are come thither, the coroner, upon the oath of them, shall enquire in this manner, that is, to wit: if they know where the person was slain; whether it was in any house, field, bed, tavern, or company, and who were there? Likewise, it is to be enquired who were culpable, either of the act or of the force; and who were present, either men or women; and of whatever age soever they be, (if they can speak or have any discretion)—and how many soever be found culpable by inquisition, in any of the manners aforesaid, they shall be taken and delivered to the sheriff, and shall be committed to the jail, until the next court hav-

ing jurisdiction of the offence. If it happen that any such man be slain, who is found in the fields, or in the woods, first it is to be enquired, whether he were slain in the same place or not; and if he were brought and laid there, they shall do as much as they can to follow their steps that brought the body thither, whether he were brought upon a horse or in a cart; it shall be enquired also, if the dead person were known, or else a stranger, and where he lay the night before; and immediately upon these things being enquired, the bodies of such persons being dead or slain, shall be buried—in like manner it is to be enquired of them that be drowned or suddenly dead; and after such bodies are to be seen, whether they were so drowned, or slain, or strangled by the sign of a cord tied strait about their necks, or about any of their members, or upon any other hurt found upon their bodies; whereupon they shall proceed in the form abovesaid; and if they were not slain, then ought the coroner to attach the finders and all others in company; also, all wounds ought to be viewed—the length, breadth and deepness, and with what weapons, and in what part of the body the wound or hurt, and how many be culpable, and how many wounds there be, and who gave the wounds? All such things must be enrolled in the rolls of the coroners.

It shall, moreover, be the duty of the coroner, to enquire of the death of all persons whatsoever who die in prison, to the end that it may appear, whether such persons came to their end by the common course of nature, or by some unlawful violence, or unreasonable hardships put on them by those under whose power they were confined.

Sect. IV. Every coroner, upon any inquisition before him found, whereby any person or persons shall be indicted for murder or manslaughter, or as accessary or accessaries to the same, before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the jury before him, being material; and shall bind all such by recognizance or obligation, as do declare any thing material relating to the same, to appear at the next circuit or superior court; to be holden within the county, where the trial thereof shall be; then and there to give evidence between the territory and the party so indicted, at the time of the trial, and shall certify as well the same evidence, as such bond or bonds in writing, as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof, to be had or made; and in case any coroner shall offend in any thing contrary to the true intent and meaning of this act, the circuit or superior court, holden in the county where such offence shall happen to be committed, upon due proof thereof, by examination before them, shall for every such offence, set such fine on every such coroner, as they shall think meet.

Sect. V. If any person be grievously wounded, especially if the wounds be mortal, the party accused shall be taken immediately, and kept until it be perfectly known, whether he that was hurt, shall recover or not; and if he die, the defendant shall be kept; and if he recover health, he shall be attached by pledges, according to the danger of the wound.

Moreover, if any be accused of any act done as principals, they that be accused as accessory shall be attached also, and safely kept in custody until the principal be attainted or delivered.

If any be suspected of the death of any man being in danger of life, he shall be imprisoned as before is said; in like manner hue shall be levied for all murders and burglaries, and for men slain, or in peril to be slain; and all shall follow the hue and steps, as near as can be; and he that doth not shall be amerced at the discretion of a jury.

If any be found culpable by inquisition, taken in manner directed by this act, and be not present in custody, the coroner shall straight issue his warrant to apprehend the person so found culpable; and the accessories if any, and the person accused, if apprehended, shall straightway be carried before some justice of the county or corporation, where such offence was committed, to be dealt with as the law directs.

If any coroner be remiss, and make not inquisition upon a view of the body slain or murdered, or shall not endeavor to do his office upon any person dead by misadventure, or shall not certify the inquisition by him taken in the manner directed by this act, he shall for every such offence forfeit the sum of three hundred dollars, to be recovered by action of debt, in any court of record of this territory; one half thereof to the use of the informer, and the other half to the use of the territory.

4. **Sect. VI.** Whenever it shall happen in the case of any sudden death, or deaths in prison, that the coroner cannot in convenient time be requested to attend; it shall be the duty of the nearest justice of the peace, to perform the services required in this act, to be performed by the coroner.

SLAVES.

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ACT of July 20, 1805. (Dig. p. 259.)

1. Sect. I. From and after the passing of this act, it shall not be lawful for any person or persons, holding or owning slaves to liberate them, or any of them, unless they first prove to the general assembly that such slave, or slaves, have done some meritorious act; either for the benefit of the said owner, or for the benefit of this territory; and in the said case, the owner or owners of the said slave or slaves, shall first give bond and security to the governor, for the time being, that the said slave or slaves shall not become chargeable to the public. *Provided nevertheless*, That all slaves, so emancipated, shall be liable to be taken by execution to satisfy any debt, contracted by the person emancipating them, before such emancipation is made.

2. Sect. II. Any slave in this territory, claiming his or her freedom, shall proceed by petition, to the county or circuit court of the county, where his, or her master, or owner, shall reside: who, if the slave be in his or her possession, shall enter into bond, with approved security to the governor, in a sum, to be adjudged of by the court, that the said slave shall be forthcoming and subject to the order of the said court; and that he will abide by the judgment the said court may render in the premises: in which case, such slave shall remain in the service of his owner, or person, claiming him or her, until the determination of the suit. And if out of the possession of his or her owner, or person claiming him or her; such slave shall enter into a recognizance, with sufficient security, to be approved of by the court, to make good to his or her owner, all such costs and damages as he shall have incurred, in consequence of the application of such slave, for the recovery of his freedom, in case he eventually fail in substantiating the

same: and that he will be forthcoming and abide the sentence of the said court.

ACT of March 6, 1805, revised and amended February 10, 1807. (Dig. p. 378.)

3. **Sect. I.** No slave shall be admitted a witness against any person in any matter, cause or thing whatsoever, civil or criminal, except in criminal cases in which the evidence of one slave shall be admitted for or against another slave.

4. **Sect. II.** No slave shall go from the tenement of his master, or other person, with whom he lives, without a pass, or some letter or token, whereby it may appear that he is proceeding by authority, from his master, employer, or overseer: if he does, it shall be lawful for any person to apprehend and carry him before a justice of the peace; to be by his order, punished with stripes, or not, in his discretion, not exceeding twenty stripes.

Sect. III. If any slave shall presume to come, and be upon the plantation of any person whatsoever, without leave, in writing, from his or her owner or overseer, not being sent upon lawful business; it shall be lawful for the owner or overseer of such plantation, to give, or order such slave ten lashes, on his or her bare back, for every such offence.

5. **Sect. IV.** No slave shall keep or carry any gun, powder, shot, club or other weapon whatsover, offensive or defensive, except the tools given him to work with, or that he is ordered by his master, mistress, or overseer, to carry the said articles from one place to another; but all and every gun, weapon, or ammunition, found in the possession or custody of any slave, may be seized by any person; and upon due proof thereof made before any justice of the peace of the county or corporation where such seizure shall be made, shall by his order, be forfeited to the seizer for his own use: and moreover, every such offender, shall have and receive, by order of such justice, any number of lashes, not exceeding thirty-nine, on his bare back, for every such offence. *Provided nevertheless*, That any justice of the peace may grant, in his proper county, permission in writing, to any slave, on application of his master or overseer, to carry and use a gun and ammunition, within the limits of his said master or owner's plantation, for a term not exceeding one year; and revocable at any time within such term, at the discretion of the said justice. And to prevent the inconveniences arising from the meeting of slaves,

6. **Sect. V.** If any master, mistress, or overseer, of a family, shall knowingly permit or suffer any slave, not belonging to him or her, to be and remain in or about his or her house or kitchen, or upon his or her plantation, above four hours at any one time, without leave of the

owner or overseer of such slaves, he or she so permitting shall forfeit and pay ten dollars for every such offence. And every owner or overseer of a plantation, who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation, or quarter, at any one time, shall forfeit and pay ten dollars for each negro or slave above that number: which said several forfeitures shall be to the informer; and recoverable with costs, before any justice of the peace of the county or corporation where such offence shall be committed. *Provided always*, That nothing herein contained shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting with their owner's or overseer's leave, upon any plantation to such owner belonging; nor to restrain the meeting of slaves on their owner or overseer's business, at any public mill; nor to prohibit their meeting on any other lawful occasion, by license in writing from their owner or overseer; nor their going to church, and attending divine service, on the Lord's day, and between sun-rising and sun-setting.

7. Sect. VI. Riots, routs, unlawful assemblies, trespasses, and seditious speeches, by a slave or slaves, shall be punished with stripes, not exceeding thirty-nine, at the discretion of a justice of the peace; and he who will, may apprehend and carry him, her, or them, before such justice.

8. Sect. VII. If any white person, free negro or mulatto, shall at any time be found in company with slaves, at any unlawful meeting, or shall harbor or entertain any slave, without the consent of his or her owner; such person being thereof convicted, before any justice of the peace, shall forfeit and pay twenty dollars for every such offence, to the informer, recoverable with costs before such justice.

9. Sect. VIII. Every justice of the peace, upon his own knowledge of such unlawful meeting, or information thereof to him, made within ten days after, shall issue his warrant to apprehend the persons so met or assembled, and cause them to be brought before himself, or some other justice of his county or corporation, to be dealt with as the act directs; and every *justice failing herein*, shall forfeit and pay ten dollars for every such failure. And every sheriff or other officer who shall fail, upon knowledge or information of such meeting, to endeavor to suppress the same, and bring the offenders before some justice of the peace to receive due punishment, shall be liable to the like penalty of ten dollars. Both which penalties shall be to the informer, and recoverable with costs, by action of debt, in any county or corporation court. And every under sheriff, or constable, who, upon knowledge or information of such meeting, shall fail to perform his duty in suppressing the same, and apprehending the persons so assembled, shall forfeit and pay ten dollars for every such failure, to the informer, recoverable with costs, before any justice of the county or corporation wherein such failure shall be.

10. SECT. IX. No person whatsoever shall buy, sell, or receive of, to or from a slave, any commodity whatsoever without the leave or consent of the master, owner or overseer of such slave, expressive of the article so permitted to be bought, sold or bartered. And if any person shall presume to deal with any slave without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such slave four times the value of the thing so bought, sold, or received, to be recovered with costs, by action upon the case, in any court having cognizance of the same, within this territory; and shall also forfeit and pay the further sum of twenty dollars, to any person who will sue for the same, with costs, before any justice of the peace; or on failure or refusal so to pay, shall, by order of such justice, be committed to prison until he or she make such payment. And any slave offering to sell any article, without leave in writing from his master or owner, shall receive ten lashes, by order of any justice of the peace before whom he or she is convicted.

11. SECT. X. If any master or owner of a slave shall license such slave to go at large and trade as a freeman, the master or owner shall forfeit and pay the sum of fifty dollars; one moiety to the use of the person suing for the same, and the other moiety to the use of the territory. And if after conviction, such slave shall be found so going at large, and trading, the master or overseer shall again be liable to the like penalty, to be recovered as aforesaid; and so, as often after conviction as such slave shall be found so going at large and trading.

SECT. XI. If any person shall permit his or her slave to go at large or hire him or herself out, every person or persons so offending, shall forfeit and pay to the use of the territory, the sum of fifty dollars; and it shall be lawful for any person to apprehend and carry such slave before a justice of the peace, in the county or corporation where apprehended. And if it shell appear to the justice, that such slave comes within the purview of this act, he shall order him or her to the jail of the county or corporation, there to be safely kept until the next court; when, if it shall be made appear to the court that the slave so ordered to jail hath been permitted or suffered to hire him or herself out contrary to the meaning of this act, the court shall immediately proceed to enter up judgment and award execution against such offender, for the amount of the said forfeiture, with costs: *Provided*, That if the owner or holder of such slave or slaves, shall enter into bond before the said justice, payable to the governor and his successors in office, with sufficient security, in double the amount of the said forfeiture, conditioned to appear at the next county court of the proper county, to do and receive what shall be enjoined him by the court; then and in that case, such slave may be suffered to remain with his or her owner.

12. SECT. XII. All runaway slaves may be lawfully apprehended by any person, and carried before the next justice of the peace; who shall either commit them to the county jail, or send them to the owner

if known; who shall pay for every slave so taken up, the sum of six dollars, to the person apprehending him or her: and also all reasonable costs and charges.

And in order to establish what slaves shall be considered as runaways: if any slave shall absent him or herself, from his or her usual place of residence, or owner's service, without leave, the owner or overseer shall be obliged to give into the next justice of the peace, the name, with a description of the person of such slave, within ten days after such slave shall have absented him or herself: all such slaves so reported, shall be considered as runaways; and the person apprehending him, her or them, shall be entitled to the above reward. And if any master, mistress, or overseer, shall neglect to give in the information above required; such master, mistress, or overseer, shall forfeit and pay one dollar for each day that such information shall have been omitted: which penalty shall be recoverable before any justice of the peace, by such person as shall sue for the same.

And whereas many times slaves runaway, and lie out hid, and lurking in swamps, woods, and other obscure places, killing hogs, and committing other injuries to the inhabitants of this territory, therefore,

13. **Sect. XIII.** In all such cases, upon intelligence given, of two or more slaves lying out as aforesaid, any one justice of the peace of the county where the slaves are supposed to lurk or do mischief, shall be, and are empowered and required, by warrant reciting their names, and owners' names if known, to direct the provost of the patrols to take such power with him as he shall think fit and necessary for the effectual apprehending of such out-lying slave or slaves, and go in search of them; and upon their being apprehended, to comit them, or any of them to the jail of his county for further trial. And for every such out-lying slave by him apprehended and committed to jail, as aforesaid, he shall be entitled to a reward of thirty dollars, to be paid out of the territorial treasury; three fourths of which sum shall be reimbursed to the territory by the owner of the said slave: *Provided*, That if the owner be an inhabitant of this territory, the said sum shall be added to his tax for the current year, and be collected and accounted for in the same manner as other public taxes are.

And provided also, That any other person or persons who shall apprehend and commit to jail, as aforesaid, any out-lying slave, he or they shall be entitled to the same reward for every such apprehension and commitment.

14. **Sect. XIV.** All slaves be prohibited from keeping dogs, under any pretence or consideration whatsoever; and the slave or slaves so offending, upon complaint thereof before any justice of the peace, shall be punished with stripes not exceeding twenty-five, for every such offence; and the master or owner who shall permit his slaves to keep dogs contrary to this law, shall forfeit and pay the sum of five dollars, for each and every dog so kept, to and for the use of the person com-

plaining; and moreover, shall make good all damages done by dogs appertaining to, or kept by any of his or her slaves.

15. Sect. XV. No slave shall be allowed to own any horse, mare, gelding or mule; and if any slave shall actually own such property, the same shall be forfeited, and sold under the direction of the court of the county, where such property shall be so owned: one moiety of the proceeds for the use of the territory; and the other moiety to any person who shall sue for the same. It is also forbidden to slaves to keep hogs running at large; or to keep in enclosures more than they can conveniently maintain; the number of which to be regulated by the several owners; and to be distinctly marked; and register thereof made for the inspection of any person who shall require to see the same.

And whereas it has been the humane policy of all civilized nations, where slavery has been permitted, to protect this useful, but degraded class of men, from cruelty and oppression: Therefore,

16. Sect. XVI. No cruel or unusual punishment shall be inflicted on any slave within this territory—and any owner of slaves authorising or permitting the same, shall, on conviction thereof before any court having cognizance, be fined according to the nature of the offence, and at the discretion of the court, in any sum not exceeding two hundred dollars, to, and for the use of this territory.

Sect. XVII. *Repealed January* 15, 1814.

17. Sect. XVIII. If any slave shall at any time consult, advise, or consult to rebel, or make insurrection; or shall plot, or conspire the murder of any person or persons whatsoever; every such slave consulting, plotting or conspiring, shall be adjudged and deemed felony; and the slave or slaves convicted thereof, in manner hereinafter directed, shall suffer death.

ACT of March 1, 1808. (Stat. p. 37.)

18. Sect. I. From and after the first day of January, 1809, it shall not be lawful for any person or persons importing slaves into this territory from any of the United States, or from any of the territories thereof, to expose to sale within the limits of this territory, any slave either negro, mulatto, or person of colour above the age of fifteen years, without having previously exhibited to the chief justice of the orphans' court of that county where such slave or slaves are offered for sale, a certificate signed by two respectable freeholders, in the county of the state or territory from whence said negro, mulatto or person of colour is brought, which certificate shall contain a particular description of the stature and complexion of said slave or slaves, together with the names and sex of the same; and shall furthermore certify, that neither the slave or slaves therein mentioned and described, have been guilty of or convicted of any crime, either murder, burglary, arson,

felony, or larceny to their knowledge or belief, in the state or territory from whence said slave or slaves have been imported, which certificate shall be signed or acknowledged before the clerk of the county of the state or territory from whence said slaves are brought, and certified by said clerk, that the persons, whose signatures are affixed to said certificate, are respectable freeholders of said county and neighborhood.

19. Sect. II. If any person shall from and after the first day of January 1809, purchase or sell any slave, either negro, mulatto, or person of color, without having complied with the provisions of the foregoing section, he, she or they so offending, shall pay the sum of one hundred dollars for every slave so sold or purchased ; recoverable in any court having competent jurisdiction, one moiety to the territory, the other to the person prosecuting the same to effect.

20. Sect. III. The seller or purchaser of any slave or slaves brought into the territory after the first day of January 1809, shall cause to be registered with the register of the orphans court of that county where such slave or slaves are first sold, all certificates as aforesaid, the seller previously swearing that he believes the contents of the said certificate to be just and true, which oath said register is hereby authorised and required to administer, for which services he shall receive the usual fees for registering or recording, as is allowed by law to the clerks of the county courts of this territory.

21. Sect. IV. If any seller of any slave or slaves, shall cause to be registered any fraudulent certificate of any slave or slaves, he, she or they so offending, shall for every slave so enumerated in said certificate, forfeit and pay the sum of five hundred dollars ; recoverable in any court having competent jurisdiction, one moiety to the territory, and the other to the person prosecuting the same to effect, and shall moreover be subject to the pains and penalties of perjury.

22. Sect. V. Every person or persons, bringing and importing any slave or slaves into this territory after the first day of January 1809, shall within five days after their arrival within the limits of the same, furnish to the clerk of the county court of that county where they may first land or arrive, an accurate account on oath, of all and every slave or slaves by him, her or them so imported or brought ; whereupon it shall be the duty of said clerk to transmit copies of the said list or account, one to the assessor and enquiror for the county, and one to the auditor of public accounts.

23. Sect. VI. It shall be the duty of said assessor and enquiror to assess on every slave contained in said list or account, the sum of five dollars ; which sum or sums, the tax collector of the county is hereby required, authorised and directed to collect from the importer, master or owner of said slaves, within thirty days after the arrival of the same into this territory ; and account on oath, within thirty days thereafter, to the audtor of public accounts.

24. Sect. VII. If any person or persons, either owner, master or importer of any slave, shall fail or refuse, from and after the said first day of January 1809, to comply with the provisions of the foregoing section, he, she or they so refusing, shall pay a double tax; for which the tax collector is hereby authorised and directed to issue his execution forthwith to the sheriff of the county, in the same manner as he is directed in the case of delinquents or defaulters on the tax list of the county.

25. Sect. VIII. The provisions, forfeitures and requisitions of this act, as far as it relates to tax on slaves, shall not be construed so as to affect persons residing within this territory, or persons emigrating to the same for the purpose of being permanent inhabitants thereof.

ACT of December 5, 1809. (Stat. p. 25.)

26. Sect. VII. All and every person or persons, are forbidden to sell liquors or spirits to any slave or slaves, without permission from the master or owner, and should any person violate the above requisition, he shall be liable to a penalty of fifty dollars, recoverable before any court of competent jurisdiction, one half for the benefit of the informer, and the other half to the clerk of the county court, to be applied by said court to county purposes, as they may think proper.

27. Sect. IX. Patrols and all other persons are hereby authorised to kill all dogs owned or kept by negroes; and all masters or owners who may allow any slave to keep stock of any description, in his or her own right, shall be subject to a penalty not exceeding fifty dollars, recoverable before any court of competent jurisdiction, one half to the informer, and the other half to be paid over to the county court, to be appropriated to county purposes.

28. Sect. X. All slaves who shall be found at the distance of eight miles, without a pass or some token from the owner or overseer of such slave, or have lain out more than two days from the service of his master or overseer, without leave, shall be considered a runaway, any law to the contrary notwithstanding.

ACT of December 4, 1810. (Stat. p. 33.)

29. Sect. I. It shall be the duty of all sheriffs, coroners, constables, justices of the peace, and of the quorum, on seeing any negro slave offering for sale any article or commodity whatever, or carrying the same with an intention to offer it for sale, without the leave or consent in writing from the master, overseer or owner of such slave, expressive of the article so permitted to be sold or bartered, to seize from, and take for their own use, all such articles or commodities which the said negro slave may have in his possession; and shall, moreover, have power and authority, and they are hereby directed, to order the

said slave to receive on his or her bare back any number of lashes, not exceeding ten; and every sheriff, coroner, constable, justice of the peace, or of the quorum, failing, refusing, or neglecting to do and perform what is required of them, and every of them, by this section, shall be deemed and considered to be guilty of a misdemeanor in office.

30. Sect. II. It shall and may be lawful for any citizen of this territory, on seeing or observing any negro slave offering or carrying for sale, any article or commodity, whatever, without a written permission from his, or their master, owner or overseer, expressive of the article or commodity, so permitted to be sold or bartered, to apprehend and take the said negro slave or slaves, before any justice of the peace, or of the quorum, and on its appearing satisfactorily to such justice, that the said negro slave or slaves, had no permission or authority, from his or their master, owner or overseer, as required by law, to sell or barter such article or commodity; then, and in all such cases, it shall be the duty of such justice, to order and direct, that all such articles, offered for sale, by such slave, be forfeited to the apprehender of such slave, for his own use; and shall moreover order and direct said negro slave to receive on his bare back ten lashes.

31. Sect. III. Nothing in this act, shall be deemed or construed to alter or take away any of the fines or penalties incurred, by persons who shall trade or barter with slaves, without permission in writing from their masters, owners or overseers, as heretofore provided for by law: *Provided also*, That nothing in this act shall be so construed, as to alter or change the right of property, in any article which may be stolen by any slave and offered for sale as aforesaid.

ACT of December 8, 1815. (Stat. p. 19.)

32. Sect. I. Any slave or slaves brought or imported into this territory contrary to the laws of the United States in such case made and provided, shall be condemned by any superior court of this territory within whose jurisdiction the said slave or slaves shall be brought or be seized, upon libel filed in the said court, and shall be sold by the proper officer of the court, to the highest bidder, at public auction, for ready money, after advertising the time and place of such sale in some newspaper in this territory, at least fifteen days previous thereto.

Sect. II. The residue of the money arising from the sale, after deducting the costs of suit, shall be paid, one half to the collector of the customs within whose district the said slave or slaves shall have been seized, and the other half into the territorial treasury. But in case there shall have been an informer, one half of the amount directed to be paid to the collector of the district, shall accrue and belong to said informer.

ACT of December 19, 1815. (Stat. p. 46.)

33. Sect. I. The jurisdiction given to the circuit and county courts by the second section of the act to prevent the liberation of slaves only in cases hereafter named, and for other purposes, passed the twentieth day of July eighteen hundred and five, shall hereafter be exercised by the superior courts of law and equity alone, and not by the county courts; and that the power vested in the said courts, to take bonds and recognizances as expressed in said section, shall and may be exercised by a judge of the territory out of court, as well as in court.

SPANISH RECORDS.

Keeper and translator thereof to be appointed 1
To give copies—fees therefor . ib.
To give bond, &c. . . . ib.

1. Sect. XXIII. And whereas no legal provision hath been had for the safe keeping, preserving and certifying the records and papers of the office of clerks and recorders, which were kept during the administration of the Spanish government: *Be it therefore further enacted*, That the governor shall, immediately after the passing of this act, appoint and commission some person properly qualified, to keep, translate, and preserve the same: And the said officer so appointed, is hereby authorised to give copies of all and singular the said papers and records, whenever thereunto required; and certify the same under his hand and official seal; for which he shall receive a fee of twenty-five cents for every hundred words: and the person so appointed, before he enters upon the exercise of his office, shall give bond and security, payable to the governor, and his successors in office; in the penal sum of five thousand dollars; conditioned for the safe keeping of the said papers and records, and the faithful discharge of his office; which bond shall be lodged in the office of the secretary of this territory; and may be put in suit by the party or parties injured, in his or their own names; and shall not become void upon the first recovery; but may from time to time be put in suit, by action of debt, until the whole penalty be recovered.

STRAYS, STOCK AND DROVERS.

Pounds at court-houses to be erected 1
Strays to be exhibited there . ib.
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ACT of March 4, 1803, revised and amended February 10, 1807. (Dig. p. 399.)

Sect. I. *Repealed December* 24, 1812.

1. Sect. II. The justices of the several county courts within this territory shall cause a pound to be erected at their respective court-houses, with a good and sufficient fence, and a gate or bars, where all stray horses, mares or mules, above two years old, taken up within the county, shall be kept on the first day of the two courts, whether county or superior courts, next succeeding the time at which they may be taken up, from twelve to four o'clock on each day, that the owner may have an opportunity of claiming his property; and the expence of making such pounds shall be defrayed out of the public treasury, on a certificate thereof made by such courts to the auditor of public accounts. And where any person, taking up such stray resides more than thirty miles from the court-house of his county, he shall not be compelled to exhibit the same more than once in the pound, which shall be on the first day of some court within six months after taking up. And the said justices shall appoint some person to take care of the said pound, and to attend the same on court days, who shall be entitled to demand from every person putting in a stray the sum of twenty-five cents, at every time the same may be put in, which shall be repaid by the owner thereof.

Sect. III. and IV. *Repealed December* 24, 1812.

2. Sect. V. If any person shall take or send away any stray out of this territory, on any pretence whatsoever; or shall trade, sell or barter the same; he or she, so offending shall forfeit and pay one hundred dollars; to be recovered in any court of this territory, having competent jurisdiction; one half to the informer, and the other half to the use of the county, wherein the offence shall have been committed; and moreover, shall pay to the owner the amount of the appraisement; or if no owner appears, then to the county, for the use of the owner; subject to the regulations of the second section.

Sect. VI. If any strays so taken up, shall die, or accidentally get away, before the owner shall claim his or her right, the taker up shall not be answerable for the same.

3. Sect. VII. If any person shall wilfully, or by neglect, suffer any stallion, above the age of two years, except such as are usually kept up, and happen to get out by accident, to run at large in the woods, or in any uninclosed range, it shall be lawful for any person to ketch and geld such stallion at the risk of the owner.

4. Sect. VIII. Any person who shall presume to take up a stray of whatsoever description, contrary to the meaning of this act, shall for every such offence forfeit and pay one hundred dollars; recoverable with costs, in any court of this territory, having competent jurisdiction; one half to the county, and the other half to the person suing for the same.

ACT of March 4, 1803, revised and amended February 10, 1807.
(Dig. p. 402.)

5. Sect. I. Every person in this territory who hath any horses, cattle or other stock, shall have a brand and ear-mark, different from the ear-mark and brand of every other person in the same county; which ear-mark and brand shall be recorded in the office of the clerk of the county court of the county where such horses, cattle, &c. are; for which the clerk shall receive as his fee, twenty-five cents, for all his services therein; and no brand or mark similar to a brand or mark already recorded, shall be admitted to record; but the person having the same, shall be obliged to alter them, except as herein after excepted.

6. Sect. II. When any dispute shall arise respecting the right to a brand or mark, either party may apply to a justice of the peace of the county, who shall summon the adverse party to appear before him, on a certain day therein expressed; not less than five nor more than ten days from time of application. And the said justice shall, upon the request of either party, issue subpœnas for such witnesses as they may

require; directed to any constable of the said county; who, together with the same witnesses, shall receive the same fees, and be liable to the same penalties, as are allowed or inflicted for such services and attendance, or neglect in the county courts. And it shall be the duty of the said justice to give judgment thereon; a transcript whereof, certified by the said justice, shall be a sufficient authority for the clerk to record the said brand and mark: *Provided*, That every person who may think himself or herself aggrieved thereby, may appeal to the next county court to be held in the said county, and not after.

7. Sect. III. No person whosoever shall send or permit any slave or Indian to go into any of the woods or ranges in the territory, to brand or mark any horse, mare, colt, mule, ass, cattle, hog, sheep, under any pretence whatsoever; unless the said slave be in company, and under the direction of some reputable white person; who shall therein proceed according to the provisions of this act; and if any person be convicted thereof, he shall forfeit and pay for every animal so branded and marked, twenty dollars; recoverable by action of debt in any court in this territory having jurisdiction; one half to the use of the county, and the other half to the informer.

ACT of November 27, 1810. (Stat. p. 10.)

Sect. I. *Repealed December* 24, 1812.

8. Sect. II. Any person taking up a stray, shall not be liable for using said stray, or for the death of the same, provided the same shall not have been abused.

9. Sect. III. So much of the act to which this is an amendment as comes within the purview and meaning of this act, be, and the same is hereby repealed.

ACT of December 14, 1812. (Stat. p. 30.)

10. Sect. I. It shall not be lawful for any drover or other person, to drive any horses, mules, cattle, hogs or sheep from the range to which the same may belong, but it shall be the duty of every drover or other person who may be driving of horses, mules, cattle, hogs or sheep, if any such stock, not properly belonging to his drove, should join them, to immediately halt his drove at the nearest pen, or some other convenient place, and separate all such stock as do not properly belong to him or the person or persons he may be employed to collect or drive stock for.

Sect. II. Any drover or other person who shall violate the provisions of the preceding section, shall for every offence, forfeit and pay the sum of twenty dollars, with costs; recoverable before any justice of the peace, for the use of the person suing for the same, and shall moreover be liable for damages in an action on the case, to the party injured.

11. Sect. III. When any slave or slaves, employed in driving stock of any kind, shall violate the provisions of this act, his or their owner or employer shall be liable for such transgression.

ACT of December 24, 1812. (Stat. p. 137.)

12. Sect. I. The governor of this territory, for the time being, shall appoint some suitable person in each and every county within this territory, to hold the office of "ranger," who shall enter into bond in the sum of five hundred dollars, payable to the chief justice for the time being, and his successors in office, which bond shall not be avoided by the first recovery, conditioned for the faithful performance of the duties of his office; and also, take an oath for the faithful discharge of the same; and the ranger so appointed, shall keep a book in which he shall register all certificates of strays delivered to him by the taker up of strays, and shall file the same in regular order. It shall be his duty to cause a copy of the certificate of every appraisment to be published in the nearest newspaper three times. It moreover shall be the duty of the ranger to make out a fair and correct list of all strays, and affix the same at the door of the court-house of their respective counties, on the first day of each term, omitting such strays as are proven away, escaped or dead, under a penalty of five dollars for such neglect or omission. The ranger shall receive as fees of office, for every horse or mule twenty-five cents; for every head of cattle, sheep or hogs, six and one fourth cents; for every certificate transmitted to the printer, fifty cents. The ranger, within three months after such appointment, shall reside or keep an open office within one mile of the county court-house, or the place where court is usually held.

13. Sect. II. Every person who shall take up any stray which shall be found on his plantation or land, shall forthwith give information thereof to some justice of the peace, for the county, and make oath before such justice, that the same was taken up at his or her plantation, or place of residence, or on his or her land adjoining the same, and that the marks and brands have not been defaced or altered since the taking up: And thereupon, the said justice shall issue his summons to two disinterested free-holders, or landholders of the neighborhood, commanding them to value and appraise the same, without partiality, favor or affection, and certify the valuation under their hands, together with a particular description of the kind, marks, brands, stature, color and age, which certificate shall be attested by the justice, and transmitted by him to the ranger of the county within ten days thereafter, to be by such ranger entered in his book to be kept for that purpose, for which the justice and ranger shall each receive fifty cents, to be paid by the taker up: *Provided*, That if two or more strays of the same species, are taken up by the same person at the same time, they

shall be included in one entry, and one advertisement, and the justice and ranger shall receive no more fees than for one of such strays.

14. Sect. III. When any stray as aforesaid shall be found dead, or shall have escaped, the taker up shall without delay make report thereof to the ranger on oath, who shall make a memorandum of the same, in the margin of his book, where the certificate of such stray was registered.

15. Sect. IV. When any stray shall be proven away, and the owner and taker up cannot agree as to the expenses, application may be made by either party to the next justice, who shall require two freeholders of the neighborhood, who shall have privilege of appointing an umpire to adjust the dispute, and their award under their hands shall be final.

16. Sect. V. It shall be the duty of the ranger, as soon as money shall be made by the sale of the stray or strays, to pay over the nett proceeds thereof to the county treasurer, to be appropriated to county purposes, deducting five per cent. commissions for his services; and in case of default of the ranger, his bond shall be put in suit by the chief justice of the county court for the time being, for such delinquency; and that it shall be lawful for any person claiming the proceeds of the sale of such stray or strays, to make claim to the same, before the county court, and an order shall issue for the nett proceeds thereof on the county treasurer, on proof of title to the same.

17. Sect. VI. After the expiration of twelve months from the date of any certificate of strays as aforesaid, if no owner appears to prove his property, the stray or strays so taken up as aforesaid, shall be exposed to public sale for cash, by the ranger, who shall give public notice of such sale, at least thirty days previous thereto, by advertisement thereof at the court-house of the county, or such place as the county court is usually held, and two other public places in the county, and he shall describe the stray or strays, intended to be sold, in the advertisement, and from the proceeds of such sales the ranger is hereby directed to pay to the taker up all necessary contingent charges incurred in taking the same up, or in keeping thereof, and a sum of five dollars as a reward for taking the same up: *Provided*, That all strays of the same species, shall be considered as one, as is provided in the succeeding section: *And be it further provided*, That in no case shall the taker-up be allowed a greater sum for taking up, expenses and reward, than a moiety or half part of the sales of the stray or strays so taken up.

18. Sect. VII. The clerks of the county courts shall respectively deliver over to such persons as may be appointed ranger of their counties, the several stray-books of such county, who shall proceed, in all cases, in the same manner as if the same had been posted under this act.

19. Sect. VIII. All acts, and parts of acts, coming within the purview of this act, be and the same are hereby repealed.

ACT of January 15, 1814. (Stat. p. 15.)

20. Sect. I. In all cases where any stray is not valued to a sum exceeding twenty dollars, the ranger shall proceed to sell the same for cash, in six months after the appraisment thereof; and when the value of the stray or strays does not amount to a sum exceeding ten dollars, in three months after the date of the certificate of appraisement. And the ranger shall not be required to advertise in a public newspaper, any stray where the same is not valued to twenty dollars, but shall advertise the same in three of the most public places in the county, at least twenty days before the day of sale, one of which places shall be at the door of the court-house of said county.

ACT of December 19, 1815. (Stat. p. 44.)

21. Sect. I. No stray shall hereafter be sold within less than twelve months after the date of the certificate of appraisement. And when any stray is taken up, the appraisers thereof shall be sworn to appraise the same to its true valuation, according to the best of their judgment.

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ACT of March 4, 1803, revised and amended February 10, 1807. (Dig. p. 357.)

1. Sect. I. Every person who shall be recommended for the purpose, to the county court of the county in which such person may be desirous of keeping a tavern, by six or more reputable freeholders of the county, shall be entitled to receive from the county court aforesaid a license to keep a tavern, for and during the term of one year from the date of such license; and from thence until the next county court after the expiration of the said one year: *Provided*, That on receiving the same, the said applicant shall pay to the clerk of the said court, in open court, twenty dollars, for the use of the county; and it shall be the duty of the said clerk to make an entry thereof, on his minutes; and within twenty days after the rising of the court, to pay the same into the county treasury, taking the treasurer's receipt, as his voucher for such payment, to be filed in his office.

And further, the applicant, before the said license is delivered to him, shall enter into, and acknowledge his bond, with sufficient sureties, in the penal sum of three hundred dollars, payable to the governor of this territory and his successors in office, conditioned for constantly keeping and providing his said tavern with good, clean and wholesome diet, and lodging for travellers, and stabling, provender, or pasturage for horses, for and during the term of his license; and for the due observance of all laws and ordinances, which are or may be in force in this territory, in relation to tavern keepers. And when such bond shall be executed and acknowledged as aforesaid, the clerk of the court aforesaid shall file the same in his office, and deliver the license to the aforesaid applicant; for which and the bond, and all his services respecting the same, except the table of rates, the clerk shall receive two dollars. In case of the breach of, or not complying with the condition of the said bond, it shall and may be lawful for any person, in the name of the governor, to sue for and recover, in any court having jurisdiction thereof, the penalty of the said bond; and apply one half to his or her own use, and the other half to the use of the county where the cause of action may arise.

2. Sect. II. The justices of the county courts shall fix the rates and prices to be paid at all taverns in their respective counties, once a year at least, for liquors, lodging, diet, stabling, provender, and pasturage; and may increase or diminish the same as to them may seem proper. And every tavern-keeper shall, within twenty days after the rates are fixed, set up in his public entertaining room, in a conspicuous place, a fair table of rates, certified by the clerk of the court, for which the said clerk shall receive twenty-five cents; there to be constantly kept, exposed to public view as aforesaid, under the penalty of twenty dollars.

Sect. III. If any tavern-keeper shall receive any greater price for any drink, diet, lodging, provender, stabling or pasturage, than by such rate shall be allowed, he or she so offending, shall forfeit and pay ten dollars for every such offence.

3. Sect. IV. It shall be unlawful for any inn-holder or tavern-keeper, to permit or suffer any cock-fighting, or playing with cards or dice, or to keep any gaming table, of whatsoever denomination, or any kind of gaming whatsoever, in his or her inn, or tavern, or in any out-house, tenement, yard or garden belonging thereto. And for every such offence, he or she so offending, shall forfeit and pay eight dollars.

4. Sect. V. If any person shall presume to keep a tippling house, or sell rum, brandy, whiskey, taffia, or other spirituous liquors, in less quantity than one gallon, except as is hereafter excepted; or shall sell any strong beer, porter, cider or wine, in less quantity than four gallons, without a license first obtained, as aforesaid, he or she so offending, shall for the first offence, forfeit and pay ten dollars; and every succeeding offence, the sum of twenty dollars.

Provided nevertheless, That nothing in this act contained, shall be so construed as to prevent merchants and shop-keepers from retailing liquors, in any quantity above a quart; so that the same be not drunk with his or her consent or privity, in their stores, or on the premises where they reside or have their stores.

5. Sect. VI. If any inn-holder, or tavern-keeper, or other person whosoever, shall give, sell, or deliver any kind of spirituous, fermented or stong liquors, whatsoever, to any apprentice, servant or slave, or in any way entertain them, without the consent or permission of the master, owner, or such other person as shall have such apprentice, servant or slave in their care; every person so offending shall, for the first offence, forfeit and pay the sum of ten dollars; for every succeeding offence, the sum of twenty dollars.

Sect. VII. No tavern-keeper, inn-holder or retailer of spirits, shall presume to sell any rum, brandy, wine, or other kind of intoxicating liquors, to any soldier or soldiers, stationed within this territory, belonging to and in the actual service of the United States, knowing him or them to be such, without permission from one of his or their commissioned officers; and such tavern-keeper or other person, as aforesaid, so offending, shall, for every such offence, forfeit snd pay the sum of twenty dollars. *Provided*, That nothing contained in this act, shall be so construed as to extend to those who are permitted to sell within the military lines.

6. Sect. VIII. If any person or persons residing in, coming into, or passing through the Mississippi territory, or any part thereof, shall presume to furnish, vend, sell or give, or shall direct or procure to be furnished, vended, sold or given, upon any account whatsoever, to any Indian or Indians, being within this territory, any rum, brandy, whiskey, or other intoxicating liquor, or drink, without special permission

in writing, from the governor, as superintendant of Indian affairs, he or she so offending, shall forfeit and pay for every quart of such liquor, or drink, so furnished, the sum of twenty dollars; and for every quantity furnished at one time, less than a quart, the sum of ten dollars; to be recovered by any person suing for the same, by any justice of the peace of the proper county; when the sum of the penalty or penalties does not exceed the sum of twenty dollars; and when the sum shall exceed twenty dollars, before any court, having competent jurisdiction: to be applied in either case, one half to the informer, and the other half to the use of the territory.

7. Sect. IX. If any tavern or inn-keeper, or other person within this territory, shall presume to sell rum, brandy, or such like spirits, that is adulterated with water, or any other liquor, knowing the same to be adulterated or mixed, and being convicted thereof, by the testimony of one or more credible witnesses, he or she so offending, shall, for every such offence, forfeit and pay twenty dollars.

8. Sect. X. If any inn-holder or tavern-keeper shall be convicted of being drunk, in his own inn, or tavern, besides the penalty consequent on the crime of drunkenness, his license shall immediately thereupon become void.

9. Sect. XI. All the fines and forfeitures herein before inflicted by this act, shall be recovered before any justice of the peace for the county wherein the offence may have been committed; one half to the use of the county, and the other half to the use of the person suing for the same.

10. Sect. XII. This act shall be in force from the passing thereof; and all laws heretofore made for regulating taverns, and inns, retailers of strong liquors, and all clauses and parts of laws, concerning them, coming within the purview of this act, be, and the same are hereby repealed.

ACT of December 5, 1809. (Stat. p. 26.)

11. Sect. VIII. All persons licensed to retail spirituous liquors, shall take an oath to the following effect, viz: I, A. B. do solemnly swear (or affirm as the case may be) that I will not sell or retail any spirituous liquors to any slave, nor will I purchase any article whatever from them without a written permission from his master, owner or employer, so help me God.

ACT of December 3, 1810. (Stat. p. 25.)

12. Sect. VI. Whereas persons are sometimes desirous of obtaining permission to retail spirituous liquors, during the recess of courts: *Therefore, be it enacted*, That on such person taking the oath requir-

ed by law, which oath the clerk is hereby authorised to administer, and entering into bond, with security, as the law directs, and depositing with the clerk of court, the amount of the tax and fee on such license; the said applicant shall be entitled to receive from said clerk, a certificate of such deposit, for which the said clerk shall receive fifty cents for his fee thereon; and such applicant shall thereby be authorised to retail liquors, &c. until the next succeeding county court, to which the said applicant shall present the said certificate, for approbation, and if approved by the court, the clerk shall issue a license to the said applicant, to continue in force for one year, from the date of said certificate; and if not approved, the clerk shall refund to the applicant, so much of the tax as corresponds to the time yet to come of one year from the deposit.

ACT of November 18, 1812. (Stat. p. 5.)

13. Sect. I. It shall be the duty of the clerks of the several county courts, on the first day of each term of the superior court of their respective counties to furnish the court with a list of the persons who have obtained tavern licenses within one year immediately preceding such court; and every clerk neglecting so to do may be fined by the said court in any sum not exceeding fifty dollars; which list shall be delivered to the grand jury, for their information; and this act, together with the act to which this is an amendment, given in charge by the court to the grand jury aforesaid; and the grand jury shall present every person or persons who may hereafter violate this act, or the acts to which this is an amendment; and it shall be the duty of the judges of the superior court, upon such presentment being made by the grand jury, to cause the person or persons so presented, to appear before the court, to be tried by a petit jury, without any indictment being filed, and if found guilty, the court shall, and they are hereby vested with power and authority to assess a fine, not exceeding one hundred dollars, on every person or persons so found guilty.

14. Sect. II. The fines imposed by virtue of this act, shall be paid into the county treasury, to be appropriated to county purposes.

15. Sect. III. So much of the fifth section of the act to which this is an amendment, as imposes fines for the violation of said act be, and the same is hereby repealed; and the fines imposed by this act substituted in lieu thereof.

ACT of December 2, 1814. (Stat. p. 9.)

16. Sect. I. Any person residing without the limits of any town or village, wishing to keep a tavern, and complying with the requisites of the law, shall be entitled to receive a license upon paying the sum of ten dollars, in lieu of the sum of twenty dollars heretofore required by law.

17. Sect. II. It shall be the duty of the assessor, tax collector, and sheriff of each county, if it should come to their knowledge by in[illegible]mation or otherwise that any person is retailing spirits, to give information thereof to the attorney general, at the commencement of each term of the superior court of their county, and to furnish a list of the witnesses to prove the same, and the attorney general shall cause the said witnesses, provided such person has not obtained a tavern license, to be sworn, and sent to the grand jury; he shall also at each term of the superior court move that a fine be assessed against each and every clerk who shall neglect to furnish the court with a list of the persons having obtained tavern licenses agreeably to the provisions of the act passed the eighteenth day of November, one thousand eight hundred and twelve.

* * *

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ACT of February 10, 1807. (Dig. p. 28.)

1. Sect. I. There shall be appointed, and commissioned by the governor, from time to time, one treasurer for the territory, under the title of Territorial Treasurer; who shall keep his office at the place designated by law for the sitting of the general assembly; and shall be allowed 50 dollars a year for office rent. There shall likewise be appointed one treasurer in every county, under the title of County Treasurer; who shall each, severally, prior to the entering upon the duties of his office, take and subscribe an oath of office, and give bond with sufficient sureties—the territorial treasurer in the penal sum of twenty thousand dollars, and the county treasurers in the penal of sum five thousand dollars; each payable to the governor of the Mississippi territory, and his successors in office.

Sect. II. The condition of the territorial treasurer's bond shall be in the words, or to the effect following, to wit:—"The condition of this obligation is such, that if the above bounden —— ——, shall from time to time, and at all times, render a just and true account, to the legislature of the Mississippi territory, when by them thereunto required, of all the monies, securities, stock, and other property, of the said territory, which shall come to his hands, or be committed to his charge; and deliver the monies, securities, stock, and other property, of the said territory, in his hands, together with all documents, instruments of writing, papers and books belonging to, or for the use of the said territory, to his successor in office; and shall well, honestly and faithfully perform all the duties of his office; and shall answer for all improper appropriations, waste, embezzlement, or destruction of the said monies, securities, stock, property, documents, instruments of writing, papers or books, which shall be done or committed by any person or persons, to be by him employed in the said office; then this obligation to be void, otherwise to be and remain in full force and virtue." Which bond shall be executed before the governor, and with the oath thereon endorsed; filed in the office of the territorial secretary.

Sect. III. The condition of the bond of the county treasurer shall be the same as that of the territorial treasurer; changing therein the words "legislature of the Mississippi territory," into "county court;" and the word "territory" into "county;" which bond shall be executed before two justices of the peace, and with the oath thereunto endorsed, filed in the office of the clerk of the court of the county wherein he is appointed.

2. Sect. IV. If any treasurer die, resign, be discharged, or cease to hold his office, then such treasurer, or if he be dead, his heirs, executors or administrators, shall fairly and regularly state the account, and deliver the monies, securities, stock, property, instruments of writing and books of the territory, or county, in his possession, to the

succeeding treasurer; who, if a territorial treasurer, shall make report thereon to the legislature; or if a county treasurer, to the county court; and the said report, if confirmed by the legislature or county court, shall be a discharge of the late treasurer's bond; which in such case shall be delivered to the said treasurer, or his heirs, executors or administrators.

3. Sect. V. It shall be the duty of the said treasurers to receive and keep the monies of the territory or county, for which they are appointed; to disburse the same agreeably to law, and take receipts for all monies which they shall pay; to keep accounts of the receipts and expenditures of the public money, and in the case of county treasurers, to keep accounts of all debts due to or from the counties respectively, for which they are treasurers; and direct prosecutions for debts that are or shall be due to the county, for which they are appointed. And for this purpose they shall be furnished by the clerks of the several courts of justice respectively, once in every year, with authenticated extracts from the records and dockets of their respective courts, of all fines, forfeitures, amercements, escheats, judgments and orders entered into such courts, whereby monies may be accruing or arising to the use of the counties respectively. And if any clerk as aforesaid, shall neglect his duty herein, he shall be liable to pay a fine to the use of the county, in the discretion of the court where tried, not exceeding two hundred dollars, to be levied by complaint of any county treasurer, or of any attorney-general; and on conviction thereof had in any court of competent jurisdiction.

4. Sect. VI. It shall be the duty of the territorial treasurer to make reports and give information to the legisture of this territory; or in their recess, to the Governor, in person, or in writing, as he may be required, respecting all matters referred to him; or which shall in anywise appertain to his office; and generally to perform all such services relative to the finances as he shall be directed to perform.—And it shall moreover be his duty to prepare and lay before the General Assembly, at the commencement of each annual session thereof, a report on the subject of finance, containing estimates of the public revenue and public expenditures, for the purpose of giving information to the General Assembly, in adopting modes for raising the money requisite to meet the public expenditures.

5. Sect. VII. It shall be the duty of the county treasurers, respectively, to make reports snd give information to the county courts of the counties wherein they are appointed, in person, when thereunto required, respecting all matters in anywise belonging to their offices, and generally to perform all such services relative to the finances of the counties, as they shall be directed to perform.

6. Sect. VIII. It shall be the duty of the said treasurers, and every of them, to state in fair books, the amount of monies which they shall

receive for taxes, impositions, debts, fines, penalties, forfeitures, or any other account whatsoever, for, or in behalf of this territory, or of the county in which they are respectively appointed; and which they shall pay in pursuance of acts of the Legislature, in such manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in payment of the several demands, may distinctly appear; and the territorial treasurer shall, from time to time, lay the same and all other his proceedings, relative to his office, before the Legislature; and each of the county treasurers shall in like manner, lay the same, from time to time, and all other their proceedings, relative to their office, before the county court of the county wherein they are apppointed.

Sect. IX. *Repealed December* 24, 1812.

ACT of March 1, 1806. (Dig. p. 32.)

7. Sect. I. There shall be appointed, by the Governor of this territory, for the time being, an Auditor of Public Accounts, who before he shall be qualified to act, shall take an oath, impartially and honestly to discharge the duties of his said office and shall give bond, with two or more sufficient securities, payable to the Governor, for the time being, and his successors in office, in the penal sum of five thousand dollars; conditioned for the faithful discharge of the duties of the said office. The said auditor shall keep his office in the place designated by law for the sitting of the General Assembly; and shall be allowed the sum of fifty dollars a year for office rent.

8. Sect. II. It shall be the duty of the said auditor, to examine, state, settle and audit all accounts, claims or demands whatsoever, against the territory, arising under any law or resolution of the Legislature; and to grant to every claimant, authorised to receive the same, a warrant on the territorial treasurer, under his hand and seal of office; making due entry and register of all his proceedings, in a book to be kept for that purpose; and carefully arranging, filing, and preserving in his office, all accounts, receipts, vouchers and papers, touching the same; to examine, settle and audit the accounts of all public debtors, collectors of any tax or revenue, levied by act of the Legislature, and payable to the territorial treasurer; to call upon all such debtors, to render accounts, and pay into the treasury all sums and balances due: and on their failure so to do, to institute proceedings against them at law; to require information on oath, from any person, party or privy, of any matter, relative to any account under his examination, and material for his information; to state and keep the accounts, so as to shew the amount of all warrants by him drawn on the treasurer, for what services or articles of public expense they were given; and to lay before the General Assembly, annually, and as often as thereto required, the general accounts, together with an account of all balances due to and from the territory.

Sect. III. It shall be the duty of the said auditor to decide on the official forms of all papers to be issued for collecting the public revenue, and the manner and form of keeping the accounts of persons employed therein; and the books and accounts of the treasurer and all other persons concerned in the collection and safe keeping of the public monies or funds of this territory, shall at all seasonable times, be open to the examination and inspection of the said auditor.

9. Sect. 4. It shall not be lawful for the territorial treasurer, to pay or receive any public money but on warrant or certificate from said auditor; who shall begin on the first day of January annually, and number each warrant for the payment of money, beginning at number one, and continuing progressively until the last day of December following, inclusive.

10. Sect. V. The said auditor shall open his office on the first Monday in April next; he shall keep books for the registry of all legal debts and demands, of every denomination, kind, or natuie soever; for which any person or persons hold any warrants or certificates, issued by lawful authority, before the said first day of April next, and chargeable on the territorial treasury, or the county treasury of any county in this territory; and file and preserve in his office the warrants and certificates so taken up; and where any warrant or certificate shall appear to have been issued by any particular county, and chargeable on the same, the said auditor shall deliver to the owner or bearer of such warrrnt or certificate, a certified copy thereof; which certified copy shall authorise him or her holding the same, to draw the amount specified therein out of the treasury of the proper county: and where the demand shall appear to be of a general nature, and against the territory; of which description shall be considered all debts and demands, which have been incurred for apprehending, securing, supporting or prosecuting criminals within this territory, as well as all other demands, where the territory generally is concerned; the said auditor shall issue his warrant on the territorial treasurer in favour of the holder or bearer, for the amount called for, in any such warrant or certificate; and the said books shall be kept open for the purpose aforesaid, until the first day of November next; and any person who shall refuse or neglect to exhibit such debt or demand into the office of the auditor, on or before the said first day of November next, shall from and after that day, be forever barred and excluded as a creditor of this territory, or of any county therein; and it shall be the duty of the said auditor to report and state to the Legislature at their first session next succeeding the first day of November, the nature and extent of the said claims. It shall be the duty of each county treasurers to state to the said auditor, on or before the said day, the amount of all taxes theretofore assessed and collected in his county, and all monies that may have come into his hands as treasurer, and the disbursements thereof; which accounts and statements the said auditor shall also report to the legislature of this territory.

11. **Sect. VI.** The justices of the county court of each county, (the chief justice of the orphans' court being one) shall in term time audit and allow, on due proof, all accounts and demands legally chargeable upon their respective counties; and every account, or such part, and so much thereof as is so allowed, shall be recorded by the clerk in a book to be kept for that purpose; and the claimant shall receive a warrant on the county treasurer, signed by the clerk for the amount so allowed; and the clerk shall number the warrants issued as aforesaid, in each year; beginning in the term first held in each year, and progressing through the same in numerical order; and register the number and amount of each warrant in the aforesaid book; and transmit to the auditor of accounts, annually, the numbers, amounts and names of claimants of all such warrants, and an abstract of the items or services for which the said warrants were issued; and the result of the said account shall be entered in the auditor's books; and the account thereof laid before the legislature, annually, with his other accounts.

Sect. VII. *Repealed December* 24, 1812.

12. **Sect. VIII.** The said auditor shall procure a seal of office; the legend of which shall be, "Mississippi Territory, Auditor's Office." Also, all books and stationery necessary for the use of his office, and the accounts for the said seal, books and stationery, shall be audited and paid to the said auditor, by the territorial treasurer, without warrant; and the said seal and books shall appertain to the said office, and be delivered over by the said auditor, his executors or administrators, to his successor.

ACT of February 6, 1807. (Dig. p. 37.)

13. **Sect. I.** No warrant shall ever hereafter be issued by the auditor of public accounts, until after provision has been made by law for the allowance or pay of demand.

14. **Sect. II.** It shall be the duty of the auditor of public accounts, to draw special warrants on the territorial treasurer, when he shall be thereto required, for all monies of whatever amount, which by law are directed to be paid out of the territorial treasury, but by special warrant; which warrant shall express on what particular account such money is due by the territory. And it shall be the duty of the territorial treasurer to examine whether such warrant has been issued agreeably to law, before he shall pay the same, and after making due examination, if he shall find such warrant has been issued agreeably to law, he shall pay such warrant to the person legally entitled to receive the same, taking his or her receipt thereon; and shall also make a proper entry in his books, of each and every such warrant, and shall keep the same regularly filed in his office; and it shall be the duty of the auditor to take a receipt for every warrant so issued by him, and to keep the same regularly filed in his office.

15. SECT. III. All laws, or parts of laws, which come within the purview and meaning of this act, be, and the same are hereby repealed.

ACT of February 1807. (Dig. p. 52.)

16. SECT. XXI. The treasurer shall open an account in his books, in the name of the Mississippi territory, in which account he shall enter the amount of all sums now in the treasury, and in like manner shall enter all sums that shall be thereafter received by him; and also raise an account in the books of the treasury, in every instance, for the several appropriations of money made by the legislature, so that the appropriations of money and the application thereof conformably thereto, may appear clearly and distinctly, on the treasury books; and the treasurer is hereby required to render, annually, to the legislature, a full account of his transactions.

17. SECT. XXII. It shall be the duty of the treasurer to pay the salary of all public officers on the civil list, quarterly, and not earlier.

RESOLUTION of February 10, 1807. (Dig. p. 54.)

18. *Resolved*, That in future all accounts exhibited against this territory, shall have every charge therein clearly defined, and shall be presented on or before the first day of November next; and also on or before the first day of November, in every succeeding year, to the auditor of public accounts, at his office; whose duty it shall be to audit the same, make his remarks on each, and lay them before the legislature, within the first three days of their next ensuing session.

Resolved, That in future all accounts exhibited against this territory, shall be certified by such officers only as are known in law, and who directed the respective duties and services to be performed for the public; and each account shall also be attested; which attestation shall be subscribed by the parties making the demand, and shall be as follows: "Personally appeared (the party's name) who, after being duly sworn upon the Holy Evangelist of Almighty God, saith, that the above (or within) account of dollars and cents, is justly due to him from the Mississippi territory, and that he has never received any part thereof, either by discount or otherwise, directly or indirectly. Witness my hand. A. B.

Sworn before me, this day of J. P.

Resolved, That in future all accounts against this territory, that are not delivered in, and authenticated in the manner prescribed by the above resolutions, shall not be provided for in the tax bill of that year.

ACT of December 23, 1809, (Stat. p. 145.)

SECT. I. *Repealed December* 24, 1812.

20. SECT. II. From and after the passing of this act, the auditor of public accounts shall be entitled to receive as compensation for his

services, including office rent and stationery, at the rate of seven hundred and fifty dollars per annum, to be paid quarter yearly, out of the territorial treasury upon the order of the auditor of public accounts; and the territorial treasurer shall be entitled to receive for his services, including office rent and stationery, at the rate of seven hundred and fifty dollars per annum, to be paid quarter yearly out of any money in the territorial treasury, upon a warrant from the auditor of public accounts.*

20. Sect. II. From and after the passing of this act, the auditor of public accounts shall not issue any warrant upon any allowance made to, or claim in favor of any person, his agent or assignee who may be a debtor to the territory, but shall allow such person a credit on his account, for such allowance or claim.

21. Sect. III. It shall be the duty of the auditor of public accounts, to render to the territorial treasurer monthly, an account of all warrants that shall have been issued by him on the territorial treasurer, during the preceding month.

22. Sect. IV. All acts and parts of acts coming within the purview of this act, be, and the same are hereby repealed.

RESOLUTION of December 23, 1809, (Stat. p. 154.)

23. *Resolved*, That all surpluses of money that are now due from any collector of any special county tax, or that may arise hereafter, under any law, providing for a county tax for a special purpose, after full payment of all appropriations arising under any law raising a special county tax, shall be for general county purposes, and shall by the collector be paid over to the county treasurer, of the proper county, and on failure to do so, the county treasurer, of the proper county shall have the same mode of recovering any surplus arising as aforesaid, as is given them respectively against collectors of general county taxes, any law to the contrary notwithstanding.

ACT of December 3, 1810. (Sat. p. 16.)

24. Sect. V. When any allowance shall be made by any court to any of its officers, or any other person, the clerk of such court shall make out a fair copy of such account thus allowed, and a certificate of such allowance, and recite therein under what statute it was made; and if the auditor of public accounts shall have doubts of the propriety of any such allowance made as aforesaid, he shall not be authorised to issue his warrant therefor on the territorial treasury; but shall report the same to the general assembly at their next session, and the courts shall not be authorised to make any allowance unless authorised to do so under some statute of the territory.

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*This section repealed December 24th, 1812—inserted by mistake—*Printer.*

Sect. VI. *Repealed December* 18, 1811.

25. Sect. VII. All laws, or parts of laws which come within the purview and meaning of this act, be and the same are hereby repealed.

ACT of December 16, 1811. (Stat. p. 65.)

26. Sect. I. Where the special court directed by the thirteenth section of the act, entitled "an act to raise a revenue," may not have been held in any county in this territory, or from any other cause, the collector may not have had his list of insolvencies allowed and certified, the auditor of public accounts is hereby authorised and required to allow to the collector of such county, for all such delinquencies as shall be made satisfactorily to appear to him, ought to have been allowed by such court.

Sect. II. *Expired.*

Sect. III. Hereafter, if the justices of any county court, of any county, shall fail to hold a court as directed by the thirteenth section of the before recited act, it shall be the duty of the next county court of such county (whether it be an intermediate or regular term) to make such allowance to the collector as he may make appear to be reasonable and just: *Provided, however,* That this provision shall not be construed to authorise the county court of any county to certify any account of insolvencies to any collector who may already have had one list of insolvencies certified.

Sect. IV. The auditor of public accounts be authorised, and he is hereby required to make an allowance to any collector of the revenue for any monies with which he may stand charged, and which may be made satisfactorily appear, was improperly assessed, and when any collector hath, or hereafter may use due diligence to collect the tax due from any person or persons, by exposing for sale, his, her, or their lands or tenements, and the same shall not have been sold from want of bidders, such collector shall not be bound to account for the same until he may have collected the same: *Provided also,* That where any collector shall have advertised for sale any lands or tenements to raise the taxes due, and the lands or tenements thus advertised, could not be sold from want of bidders, that he may adjourn any such sale, from time to time, until the same shall be sold, and any sale made on any adjourned day, shall be valid to all intents and purposes, as if the same had been made on the day mentioned in the advertisement.

Sect. V. Hereafter, where any assessment of taxes shall have been improperly, the county court of the proper county may certify the same, and the auditor of public accounts, on a final settlement with such collector, shall make him an allowance of the same.

ACT of December 18, 1811. (Stat. p. 112.)

27. Sect. I. The first section of the act, entitled "an act more particularly to define the duty of the auditor of public accounts and the territorial treasurer, and for other purposes," shall not be so construed as to require appropriation to be made by the legislature before the auditor issues warrants on the territorial treasury, for any sum or sums certified to him agreeably to law.

ACT of December 18, 1811. (Stat. p. 116.)

28. Sect. I. Within one month after the passage of this act, the territorial treasurer shall give bond, with at least two good and sufficient securities, payable to the governor of this territory, for the time being, and his successors in office, in the penalty of sixty thousand dollars, conditioned for the true and faithful performance of his duties as territorial treasurer.

29. Sect. II. County treasurers shall make returns to the county courts of their respective counties, of their accounts for settlement, at least once in each and every year, and in case of failure, shall be fined in a sum not exceeding two hundred dollars, recoverable in any court of competent jurisdiction within this territory, for the use of the proper county.

30. Sect. III. The county treasurers are hereby empowered and required to examine the accounts, dockets and records of the clerks and sheriffs of their counties, for the purpose of ascertaining whether any monies, of right belonging to such county, may be in their hands, and to use all lawful ways and means to recover from all and every person holding in his hands, any money belonging to his proper county.

31. Sect. IV. All warrants issued by the auditor of public accounts, on the territorial treasurer—all notes issued by the Mississippi Bank, the Planters' Bank, and the Louisiana Bank, shall be a legal tender in payment of all dues to the territory, whether of taxes, fines or otherwise.

32. Sect. V. All claims which are due from any county within this territory, to any individual or individuals, and which have been duly audited by the auditor of public accounts, by the proper county court, or by any other legal authority, but which may have been barred by law, shall be revived and made valid against the proper county, any such law to the contrary notwithstanding.

33. Sect. VI. All acts, and parts of acts, coming within the meaning and purview of this act, be, and the same are hereby repealed.

ACT of December 17, 1812. (Stat. p. 31.)

34. Sect. I. The county courts, at their first or second term, after

the first day of January, in each and every year, shall according to the demands of their respective counties be authorised to lay a tax upon the same property and objects, as are subject to territorial taxes, according to the assessment for that year: *Provided*, That the county tax shall not exceed upon each particular article, or object, one half of the territorial tax. And the county tax shall be levied and collected by the tax collector, at the same time, and in the same manner as the territorial tax, and shall be paid by the collector into the hands of the county treasurer, at the same time as the territorial taxes are required to be paid into the hands of the territorial treasurer; and shall be in all respects under the same regulations and restrictions, which by law are provided for the due collection and payment of the territorial tax, and the tax collector shall be allowed the same compensation for collecting the county, as the territorial tax.

Sect. II. If any county court shall fail to levy such county tax, previous to the first day of June, in each year, it shall in that case, be the duty of the chief justice, or if there be no chief justice, then any other justice of said courts, to call the justices of his court together at the court-house, on five days notice, which it shall be the duty of the sheriff to give, and the said justices, or any three of them, shall have power to levy the said tax, in the same manner as if the same had been at a regular term; and it shall be the duty of the clerk and sheriff to attend the said court so called, accordingly.

35. Sect. III. It shall be the duty of the assessors of taxable property, in their respective counties, to return one list thereof to the county court, and one to the county treasurer at the same time, and in the same form, as they are required to return the same to the auditor of public accounts.

36. Sect. IV. It shall be the duty of the county courts to direct the appropriation of the money which may come into the county treasury: *Provided*, That any claim which may have been liquidated and allowed according to law, by the county courts, against their respective counties, shall be a legal tender, in payment of any county tax, or claim of the proper county.

37. Sect. V. The several county treasurers within this territory, shall on the first day of their respective county courts, in each and every year, make out and lay before the county court, a correct statement of their treasury accounts, and every county treasurer, failing to make such reports, shall forfeit and pay the sum of one hundred dollars, recoverable before any court having jurisdiction thereof, one half to be paid to the person who shall sue for the same, and the other half to be appropriated for county purposes.

38. Sect. VI. The county courts shall not appropriate the funds of their counties to any objects, but such as are contemplated by law.

39. Sect. VII. Where any tax collector has returned any delinquent, it shall be the duty of such tax collector, or his successor, (if in his power afterwards) to collect the tax of such delinquents, and make return thereof at the same time as above provided, and to this end it shall be the duty of the respective county treasurers, to put into the hands of the respective tax collectors, as soon as may be, after the first day of November in each year, a list of such delinquents, and the sum by them respectively due and owing.

40. Sect. VIII. It shall be the duty of the respective tax collectors, previous to the commencement of his collection in each year, to enter into bond, to the Governor of the Territory, and his successors in office, with security to be approved by the county courts respectively, or the chief justice thereof, in double the amount of the county tax, levied and to be collected by him, conditioned for the due performance of the duties required of him by this act, which bond shall be filed and recorded in the clerks office, of the county courts respectively, and may be proceeded on, at the instance of the county treasurer, in the same manner as the bonds for the collection of the territorial tax.

ACT of December 24, 1812. (Stat. p. 120.)

41. Sect. VI.* The auditor of public accounts and territorial treasurer shall be allowed each an annual salary of six hundred dollars, to be paid quarter yearly, out of the territorial treasury, upon a warrant from the auditor of public accounts.

Sect. VII. This act shall be in force from and after the first day of January next, ensuing.

ACT of January 20, 1814. (Stat. p. 19.)

42. Sect. I. The several tax collectors heretofore appointed and which may hereafter be appointed, their executors or administrators, shall be, and they are hereby authorised to finish the collection of all arrearages of taxes notwithstanding the time may have expired for which such collector was appointed; and such tax collector shall be entitled to receive commissions for all arrearages of tax which he may pay into the public treasury, on or before the first day of March next.

Sect. II. *Repealed December* 27, 1815.

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*The acts of March first 1806, and February tenth, 1807, allowed office rent besides salaries to auditor and treasurer. The act of December 23, 1809, repealed those acts, and gave salaries to include office rent and stationery. This act is repealed by the present act, and gives a salary merely. *Qu.* Is not the act allowing office rent revived?

ACT of December 1, 1814. (Stat. p. 10.)

43. **Sect. I.** It shall be the duty of the several county treasurers of this territory, and they are hereby authorised and required to discharge all jurors' certificates issued prior to the twenty-fourth day of December, 1812, out of any money in their hands, not otherwise appropriated; and the tax collectors for the several counties respectively shall receive the same in discharge of county taxes in like manner as other county paper.

Sect. II. All sums of money which have been or may hereafter be paid into the several county treasuries for the express purpose only of discharging jurors' certificates, shall be subject to the disposition of the county courts of each county, any law or usage to the contrary notwithstanding.

ACT of December 27, 1814. (Stat. p. 42.)

44. **Sect. I.** In case the Mississippi Bank, the Planters' Bank, or the Louisiana Bank, or either of them, should hereafter fail, or from any cause be rendered manifestly unable to discharge their paper, the governor shall and he is hereby required to make the same known by proclamation to the several tax collectors and other officers concerned in collecting monies accruing to the territory, and the said collectors and such other officers shall immediately upon receiving such information desist from receiving in payment of taxes or public dues, notes issued by the bank so failing, and the notes issued by such bank shall not thereafter be a legal tender in payment of any public due accruing to this territory: *Provided however*, That nothing herein contained shall be so construed as to prevent the collector or other officers from paying into the treasury as heretofore such notes as may have been received by them in discharge of such public dues previously to their having information of the governor's proclamation issued as required by this act, but the auditor of public accounts shall previously to any such notes being paid into the treasury require such collector or other officer to make oath that the whole amount so offered by him in payment was received by him previously to his having any knowledge of such proclamation.

RESOLUTION of December 27, 1814. (Stat. p. 54.)

45. *Resolved*, That it shall be the duty of the territorial treasurer to endorse on the back of all receipt warrants the amount of gold and silver, and the amount of notes on each bank, received by virtue of said warrants, the sum and kind of money paid on the same.

ACT of December 27, 1815. (Stat. p. 86.)

46. **Sect. I.** A tax for the sums, and in the manner hereinafter

mentioned, shall be raised in each and every year and paid into the public treasury for the use of said territory.

SECT. II. The sum of twenty cents for every hundred dollars value be paid on all land lying within this territory, claimed or held by virtue of any British or Spanish patent, or order of survey, and also on all donation claims, the right whereof has been confirmed by either of the boards of commissioners of the United States appointed for settling claims to land south of the state of Tennessee, and on such part of all pre-emption claims as shall have been paid for by such claimant; and such other claims as may be founded on lands purchased of the United States, which the assessor is required to ascertain at the time of taking in the taxable property under the several regulations herein after expressed:—Class number one shall contain all lands lying within eight miles of the city of Natchez, the first quality of which shall be rated at twelve dollars per acre; the second quality at eight dollars per acre; and the third quality at three dollars per acre. Class number two shall contain all lands lying within fourteen miles of the Mississippi river, and not included in class number one, the first quality of which shall be rated at seven dollars per acre; the second quality at four dollars per acre; and the third quality at two dollars per acre. Class number three shall contain all lands more than fourteen and not above twenty miles from the Mississippi river, the first quality of which shall be rated at five dollars per acre; the second quality at three dollars per acre; and the third quality at two dollars per cre. Class number four shall contain all lands lying more than twenty miles from the Mississippi river and west of the dividing ridge between the Chickesawhay and Tombigbee rivers, the first quality of which shall be rated at four dollars per acre; the second quality at three dollars per acre; and the third quality at two dollars per acre. Class number five shall contain all lands lying east of the dividing ridge between the Chickesawhay and Tombigbee rivers, the first quality of which shall be rated at six dollars per acre; the second quality at three dollars per acre, and the third quality at two dollars per acre. Class number six shall contain all lands lying within the boundaries of Madison county, the first quality of which shall be rated at six dollars per acre, the second quality at three dollars per acre; and the third quality at two dollars per acre. And there shall also hereafter be paid the sum of fifty cents on each slave, and the sum of sixty-two and one half cents shall be levied on all free males above the age of twenty-one years, and under the age of fifty years; the sum of twenty cents on every hundred dollars value of all lands, lots and buildings within any city, borough or town, to be estimated by the person giving in the same upon oath; and twenty-five cents per hundred dollars on the amount of sales of merchandize within the year immediately preceding the first day of January in each and every year, the time at which the assessors appointed under this act are authorised and required to begin the duties of their office, and in taking in the list of taxable property to have reference to that day; and the sum of one dollar and twenty-five cents per wheel on every pleasurable carriage. And it shall be the duty of the president of the Bank of the Mississippi to make return on oath to the assessor of the territorial tax of Adams county at the same time that he is bound by law to return a list of his own taxable property, a list of the amount of capital stock of said bank actually subscribed for, and the sum of twenty-five cents on every hundred dollars capital stock of the Bank of the Mississippi actually subscribed for shall be assessed and annually by the collector of the general tax of Adams county, and by the said collector paid over to the territorial treasurer at the same time and under the same regulations that are provided for the payment of the territorial taxes: *Provided*, That nothing in this act shall be so construed, as to authorise the imposition of any tax upon the property or estate of any religious society; for the education of youth, or the maintenance of public schools, or for charitable purposes, or upon any property belonging to any incorporated city or town in this territory; or a poll tax upon any officer or soldier in the army of the United States.

47. Sect. III. There shall be appointed by the governor of the territory, annually, an assessor of the territorial tax in each and every county; and every person who shall be appointed assessor under this act, shall, before he enters on the duties of his office, take the following oath or affirmation, to wit: "I, A, B, do solemnly swear (or affirm) that I will execute the duties of assessor of the general tax for the county of ——— to the best of my abilities, without partiality, favor or affection; so help me God." And if any assessor shall execute the duties of said office without first having taken said oath or affirmation, he shall forfeit and pay the sum of five hundred dollars, to be recovered by action of debt, in any court having competent jurisdiction; one half to the party suing for the same, and the other half to the use of the territory.

Sect. IV. It shall be the duty of every assessor appointed by virtue of this act, to apply to every person resident within his county, who hath therein any taxable property, for a list thereof. Which list shall contain an enumeration of all taxable property in his or her charge within said county; and in the account of lands, a particular description of the situation and quality of the same, and to which class it belongs, as also each town lot of land, with the dimensions of, and improvements thereon: Also the amount of sales of all merchandize sold within the year ending on the last day of December immediately preceding the time at which the assessors are herein directed to commence the duties of their office; and the assessor shall state in the last column of his list the total amount of taxes due from each person chargeable with taxes.

Sect. V. If any assessor shall go to the house or usual place of abode of any person within his county, who hath in his or her charge any taxable property, and shall not find such person at home, he may leave a written notice at the place of residence of such person, requiring him or her to give in to him the assessor, on or before the day on which the assessor is directed to finish receiving lists of taxable property, his or her taxable property; and if such persons fail to comply with the requisitions of said notice, he shall be considered as a delinquent under this act, and shall be doubly taxed according to the best information that the assessor can obtain, and at the time of giving in to the assessor a list of taxable property, the person giving in the same shall take the following oath or affirmation to wit: "I, A. B. do solemnly swear (or affirm) that the list of taxable property which I have charge of in the county of————subject to taxation, to the best of my knowledge and belief; so help me God," and which oath or affirmation the assessor is hereby authorised to administer; *Provided*, where any person holds taxable property in any other county than that in which he resides, and hath no agent in said county to give in the same, he may send to the assessor of such county a list of his property in such county subject to taxation, sworn to before, and certified by some justice of the peace: *Provided*, however, that when a county line may pass through a tract of land, on which any person resides, he or she may give in the same to the assessor of the county of his or her residence; and every person who hath any taxable property within this territory, and shall fail to give in the same to the assessor of the proper county, on or before the first day of April in each and every year; and all persons failing to comply with the requisitions of this section, shall be doubly taxed, according to the best information that the assessor can obtain.

Sect. VI. Every person shall be liable to pay taxs upon all property both real and personal of which he shall stand seized, or have in his custody, either as attorney, agent, guardian, executor or administrator or in his own right as tenant in fee or for life; or in right of his wife, subject to taxation under this act, on the first day of January in each and every year; and every person who shall sell or convey away any property, either real or personal, after the first day of January, shall give in a list of the same, with his, her or their taxable property for that year.

48. Sect. VII. Each and every assessor appointed under this act, shall on or before the first day of April in each and every year, finish receiving lists of taxable property, from persons liable to pay taxes, and shall each make out four complete lists of all taxable property, together with the names of the persons chargeable with the taxes thereon, and the amount of the taxs due from each person: one of which lists he shall on or before the first day of May, deliver to the collector of his county, who shall be appointed as by this act hereinafter directed: one copy he shall deposit in the office of the county treasurer of the proper county for the inspection of any person who may choose to examine the same: one other list he shall deposit in the auditor's office, on or before the first day of June, and the remaining copy he may re-

tain for his own use. Any assessor failing to comply with the requisitions of this act, shall forfeit and pay the sum of five hundred dollars, recoverable in any court having competent jurisdiction one half to the person suing for the same, and the other half to the use of the territory.

49. Sect. VIII. The assessors in each and every county appointed under this act, shall be entitled to receive at the rate of five per centum on the amount of taxes assessed : *Provided nevertheless*, that no assessor shall receive more than two hundred and fifty, nor less than one hundred dollars for his services respectively, except the assessors of Wayne, Green, Hancock, Jackson, Marion, Lawrence and Pike counties, who shall severally be allowed fifty dollars each ; *Provided*, the per cent herein allowed does not amount to that sum, for performing the duties required of them by this act ; and, the auditor of public accounts is hereby authorised and required to issue his warrant in favor of such assessor, upon the territorial treasurer, for the amount, at any time after the list of taxable property of such county shall have been deposited in his office ; and the territorial treasurer shall pay the same out of any monies in the treasury not otherwise appropriated.

50. Sect. IX. There shall be appointed by the Governor, for each and every year, a fit person in each and every county within this territory, a tax collector of the same, who before he enters on the duties of his office, shall enter into bond with good and sufficient security, to be approved of by at least three justices of the quorum, or of the peace of the proper county, certified by such justices on the back of such bond, payable to the governor of the Mississippi territory for the time being and his successors in office, in the penalty of, to wit : for Adams county, twelve thousand dollars ; for Madison county, ten thousand dollars ; and, for each of the other counties, six thousand dollars ; conditioned for the faithful performance of the duties required of him by this act while in office. And the justice certifying the same shall cause the said bonds to be recorded in the office of the register of the orphans court of their county and shall thereafter transmit the said bonds respectively to the auditor of public accounts, to be by him safely kept in his office ; and a certified copy of the record of the said bonds shall be good and sufficient evidence thereof, in case the original may be lost or mislaid.

Sect. X. The collectors respectively shall also, before they enter upon the duties of their office, take and subscribe the following oath, to wit: " I, A. B. do solemnly swear (or affirm) that I will to the best of my knowledge and abilities, perform the duties of collector of the taxes of the county of without partiality, favour or affection ; so help me God."

Sect. XI. The collectors of the several counties within this territory shall have power, and are hereby authorised, from and after the first day of July in each and every year, to make distress and sale of the goods and chattels, lands and tenements of all delinquents who shall not have made payment to the collector, of the taxes due for that year: *Provided*, That notice of such sale shall have been given by advertisement at the door of the court-house of the proper county, and at least two other public places within the county, at least ten days previous to the day of sale; where the distress shall be of the goods and chattels, and where the delinquent has no goods and chattels within the county, then and in that case, the lands and tenements of said delinquent within the county, may be sold by the collector, or so much thereof as will be sufficient to satisfy and pay the amount of taxes due from such delinquent, together with all costs and charges accruing thereon, *Provided*, That the collector shall have given in the nearest newspaper published in this territory, in the case of residents within the same, at least three months notice; and in the case of non-residents, at least six months notice of the time and place of sale, previous to such sale; which notice shall contain a particular description of the land for sale; on what water course it lies, and by what lands the same is bounded; and, to whom the same was granted, or by whom the same is now owned or claimed. And when real property is sold, the sale shall always be at the court-house of the proper county; and there shall not be sold in one lot more than three hundred and twenty acres of land: but, if one lot shall not sell for the amount of taxes due from the delinquent together with all costs and charges that shall have accrued thereon, the collector shall sell as many lots or parts of lots, as shall raise the full amount due; but, in no case shall the collector sell any more land than shall be sufficient to raise such sum as shall be due; and, the collector shall be entitled to demand and receive from each delinquent whose property shall have been advertised, in addition to his other compensation for collecting the taxes, a commission of five per centum upon the amount raised or to be raised; and when the collector shall sell real property, two dollars for each deed of conveyance.—*Provided*, that the persons, whose land may be sold for taxes under this act, shall have a right to redeem the same any time within one year after such sale may be made, by repaying to the purchaser the amount by him paid, together with interest thereon at the rate of one hundred per cent per annum from the day of sale until the money be paid: *And Provided also*, that if the lands of any person under age, or insane, be sold, it shall be redeemable at any time within one year after such disability be removed, upon repaying the amount that the purchaser may have paid, inclusive of subsequent taxes paid on said land with interest thereon at the rate of six per cent, per annum, until the time of redemption. And the collectors shall in all cases, upon receiving the amount of taxes due from any person, specify in the receipt for the same, the property taxed, and the total amount of taxes received.

51. SECT. XII. The taxes imposed by virtue of this act shall be preferred to all incumbrances and securities whatever; and if any per-

son between the time of rendering a list of his taxable property to the assessor, and the time to which the collector is authorised to make distress, shall be about to remove without the limits of his county, the collector, upon receiving information thereof, shall immediately make distress of the goods and chattels of the person about to remove sufficient to satisfy the amount of taxes that he may owe, and sell the same upon giving the notice herein before directed in case of goods and chattels; and all taxes assessed on any person or persons under this act, shall be a lien upon his real property lying within the county in which the assessment was made, from the first day of January of that year.

52. SECT. XIII. The justices of the quorum in each and every county within this territory, shall on the second Monday in September in each and every year, hold at their court-houses respectively, a special court for the purpose of examining the amount of insolvencies that may be returned by the collectors of their respective counties, and shall certify such allowance as to them may seem fair and just, to the auditor of public accounts, who shall allow the same so certified to the collector in a settlement of his account. The said court shall further have power to grant relief to such persons as may have been improperly taxed, or over taxed by the assessor; and upon certifying the same, as in the case of insolvencies, the auditor of public accounts shall allow the same to the collector in settlement of his account. And if any person to whom relief may be granted in the manner aforesaid shall not have paid the same to the collector, he shall be exonerated from the same; and if he shall have paid them, the collector shall refund the same amount to him: and the auditor at the time of settlement with the collectors respectively, shall suspend any proceedings against any collector for any amount of taxes due on lands that may be then advertised for sale, until after such day of sale.

53 SECT. XIV. The collectors respectively throughout this territory, shall receive in payment of all taxes imposed by this act, any coin made current by the laws of the United States, or warrants issued by the auditor of public accounts, on the territorial treasurer, and bank notes of the following banks, to wit: the Bank of the Mississippi, the Planters, Louisiana and Orleans banks, and Nashville bank.

54. SECT. XV. The collectors respectively shall pay into the territorial treasury, except the collectors of Madison, and the counties east of Pearl river, on or before the fourth Monday in October in each and every year, all monies which shall be due from them respectively, to the territory, as collector for that year; and the collectors for the counties east of Pear river and Madison shall pay the amount that they may respectively owe to the territory, into the territorial treasury on or before the second Monday in November in each and every year; and the collectors in each and every county within this territory (except the collector of Adams county) shall be entitled upon a settlement of

his account with the auditor of public accounts, to retain out of the amount by him collected, six per centum; and the collector of Adams county shall be entitled to retain six per centum on all sums by him collected up to and under two thousand dollars, and on all sums above two thousand dollars, and under four thousand dollars by him collected, five per centum; and for all sums above that amount by him collected, three per cent and no more, as compensation for collecting the same.

55. Sect. XVI. If any collector shall demand and receive of any person, more money than he shall be entitled to demand and receive under color of his office, as collector, he shall forfeit to the party aggrieved, three times the amount of the same so extorted, recoverable in any court in this territory, having competent jurisdiction, together with costs.

56. Sect. XVII. If any collector appointed under this act, shall fail to pay into the territorial treasury any money which may be due from him as collector, on or before the same may become payable by law, the auditor of public accounts shall immediately notify such delinquent collector and his security or securities, their executors or administrators, by advertisement published in some newspaper in this territory, that he will by the attorney general (at the place where the supreme court shall by law be directed to be holden, on such day as shall be named in such notice) move the supreme court of the Mississippi territory for judgment against him or them, and his security or securities and their executors or administrators for the amount which shall be due from him or them, to the territory, and the judges of the supreme court of the Mississippi territory, or any one of them, are hereby authorised and required to hold a special court for the purpose aforesaid, and to give judgment in a summary way without jury against such delinquent collector, or his executors or administrators, and his security or securities, for such sum or sums, as shall appear to be due from him or them, and award execution accordingly: *Provided*, That such delinquent or his executors or administrators, and his security or securities, have at least twenty days previous notice, of such motion, in manner as aforesaid; *And provided also*, That when such delinquent collector or his executor or executors, administrator or administrators, shall be resident east of Pearl river, or in Madison county, then, and in that case, the motion shall be made before the territorial judge of such county at the place where the courts are usually held in such county, or if there shall be no such territorial judge in such county, then the motion shall be made before three justices of the quorum of such county: *Provided*, Such delinquent collector, his executors or administrators, security or securities, have at least sixty days notice thereof, given in the manner aforesaid. And the said territorial judges, or justices of the quorum as aforesaid, are hereby authorised and required to hold special courts in their counties respectively in manner aforesaid, when, and as often as it may be necessary; and to grant judgments and award execution in the same manner as is herein pre-

scribed in the case of the judges of the supreme court. And the clerks of the courts respectively, shall issue executions upon any judgments obtained in manner aforesaid returnable to the next regular court, whether supreme, superior, or county court, and to endorse on said execution that no security of any kind is to be taken; and every sheriff or other officer to whom such execution may be directed, shall act accordingly.

57. Sect. XVIII. If any assessor or collector appointed under this act shall die after he shall have commenced the duties of his office and before he shall have completed the same, his executor or executors, administrator or administrators, shall have full power to complete the business begun by such deceased assessor or collector, either by themselves or to appoint some other person to do the same, and the said executor or executors, administrator or administrators, or such other person as may be appointed by them, shall have the same power to complete the business left unfinished by such deceased assessor or collector, as is by this act given to assessors and collectors, and the same may be completed at any time, after the time required by law, although the term of service of such collector or assessor may have expired.

Sect. XIX. If any assessor or collector, executor or administrator of any deceased collector or assessor, or any person appointed by any executor or administrator of any deceased assessor or collector, as in this act directed to complete the unfinished business of such deceased assessor or collector, shall be sued for any matter or thing done in pursuance of the powers given in this act, he or they may plead the general issue, and give this act and the special matter in evidence, any thing in any law to the contrary notwithstanding.

58. Sect. XX. Hereafter every collector of the territorial or county taxes who shall sell any real estate to satisfy any tax imposed by lawful authority shall execute to the purchaser or purchasers thereof, a deed of conveyance immediately, which deed shall be good and effectual both in law and equity; and in every such deed, the collector making the same shall recite that the real estate thereby conveyed, was sold for taxes, and the consideration; but no deed given in manner aforesaid shall be recorded until the expiration of one year from the date thereof, but may nevertheless be proven, and if the person whose estate may have been sold and conveyed as aforesaid, or his or her heirs, executors or administrators, or his or her agent or attorney, shall within the year tender to the purchaser, his or her heirs, executors or administrators, or his or her agent or attorney, or in case of his, her or their absence from the territory, then to the collector of the taxes, who sold and conveyed such real estate, the consideration money paid for the same, and amount of all subsequent taxes that shall have been paid on such real estate, with interest thereon from the dates of such payments at the rate as stipulated in the eleventh section of this

act, until such tender be made, and the deed given for such real estate thus sold and conveyed, shall be thereby vacated and made void, and the deed given up.

59. **Sect. XXI.** Where the assessors appointed in virtue of this act may have omitted or neglected to assess any property taxable under this act, then, and in that case, the collector for the proper county is hereby authorised to assess, collect and pay over the tax or taxes thus collected according to law: and that the annual reports of the auditor of public accounts and of the territorial treasurer, shall be made up to the first of November in each and every year.

60. **Sect. XXII.** When any person or persons liable to pay taxes, may after being assessed remove from the county in which he, she or they may have been so assessed, not having paid their taxes, then, and in that case, the collector of the county in which he, she or they may have been so assessed, may, and he is hereby required to send, certified under his hand, a transcript from his tax list to the collector of the county where such delinquent or delinquents may be, and the collector of such last mentioned county is hereby authorised upon such transcript to proceed to make the money by distress and sale, or otherwise, and immediately transmit the amount so made, to the collector who sent the said transcript: for which services the collector making the said money shall receive the compensation allowed by law for similar services.

61. **Sect. XXIII.** Hereafter all tax collectors shall be, and they are hereby exempt from ordinary militia duty, but not from drafs.

62. **Sect. XXIV.** It shall be the duty of each and every assessor and tax collector of the several counties within this territory, or in case any of them should die before he shall have finished the duties of his office, the person who shall have power to complete the business commenced by such deceased assessor or collector, to enquire and ascertain as well as they can the name or names of each and every person or persons within their respective counties, who shall retail any vinous or spirituous liquors without being licensed according to law, and give information thereof, with a list of the witnesses who can prove the same, to the attorney general, at the commencement of each term of the superior court of his proper county, or to the nearest and most convenient justice of the peace of the county or corporation where such unlicensed person or persons hath committed the offence; and it shall be the duty of each and every court within said territory on application for the same, to furnish each and every assessor and collector of his proper county, a complete list of licensed retailers of vinous and spirituous liquors within such county, shewing the commencement and end of such license.

63. **Sect. XXV.** The act entitled "an act to raise a revenue," passed the eighteenth day of December, eighteen hundred and nine;

also the ninth section of the act entitled "an act providing a tax for county purposes, and to reduce the territorial taxes," passed the nineteenth day of December eighteen hundred and twelve; also, an act entitled "an act to amend the several acts concerning the auditor of public accounts and tax collectors," passed the twenty-second day of December eighteen hundred and twelve; and an act entitled an act to amend an act entitled "an act to amend an act to raise a revenue," passed the twenty-third day of December eighteen hundred and twelve; and so much of the second section of "an act reducing the rate of tavern licenses and for other purposes," passed on the second day of December eighteen hundred and fourteen, as relates to the duty of assessors and tax collectors, and all acts and parts of acts coming within the meaning of this act be, and the same are hereby repealed.

ACT of December 27, 1815. (Stat. p. 108.)

64. Sect. IV. It shall be lawful for the treasurer of this territory to deposit the public money in the Bank of the Mississippi, any law to the contrary notwithstanding.

TRESPASSES.

Enclosures, what lawful . .	1	Hedges, ditches, walls, &c. .	5
Cattle, &c. breaking, what penalty	ib.	Removing boats, &c. . .	6
Condition of fence how proved .	2	In cutting timber . . .	7
Owners of unlawful enclosures, &c.	3	In opening gates, bars, &c. .	8
Partition fences	4		

ACT of April 1799 and December 3, 1801, revised and amended February 10, 1807. (Dig. p. 271.)

1. Sect. I. If any horses, mares, mules, cattle, hogs, sheep, or goats, shall break into any grounds, enclosed with a strong and sound fence, five feet high, well staked and ridered, or sufficiently locked: and so close, that the beasts breaking into the same, could not creep through; which shall be deemed a lawful fence; the owner of such horses, mares, mules, cattle, hogs, sheep or goats, or any of them, shall for the first trespass, so committed, make reparation to the party injured, for the true value of the damage he shall sustain; and for every trespass afterwards, double damages; to be recovered with costs, in any court of record.

2. Sect. II. The condition of the fence, at the time the trespass was committed, may be proved to a jury upon trial; and that upon complaint made by the party injured, before any justice of the peace

of that county, wherein such trespass shall be, such justice is hereby empowered and required, to issue his order without delay, to three honest and respectable house-keepers of the neighborhood; no ways related to the party injured; nor interested, concerning the trespass; reciting the complaint, and requiring them to view the fence, where the trespass is complained of; and to take memorandums of the same. And their testimony in such case, shall be good evidence to the jury, touching the lawfulness of the fence.

3. Sect. III. If any person injured for want of such sufficient fence, shall hurt, wound, lame, kill or destroy; or shall cause to be hurt, wounded, lamed, killed or destroyed; by shooting, hunting with dogs, or otherwise, any of the kind, or breed of horses, mules, cattle, sheep, hogs, &c. he or she so offending shall satisfy and pay the owner of the beasts, so hurt, wounded, lamed, killed or destroyed, double damages, with costs, recoverable as aforesaid. *Provided nevertheless*, That if the party liable to damages, as aforesaid, in either case, will abide by and pay, what shall be deemed reasonable, by three neighbours, indifferently chosen to assess the same, it shall be a bar against such suit.

4. Sect. IV. For the better ascertaining and regulating of partition fences, it is hereby directed, that where any neighbours shall improve lands, adjacent to each other, or where any person shall enclose any land adjoining to another's land, already fenced in, so that any part of the first person's fence becomes the partition fence between them; in both these cases, the charge of such division fence, so far as enclosed on both sides, shall be equally borne and maintained by both parties. To which, and other ends, in this law mentioned, each county court shall nominate, and is hereby required to nominate and appoint, so many honest and able men, as they shall think fit, for each county respectively, to view all such fences about which any difference may happen or arise. And the aforesaid persons, in each county respectively, shall be the sole judges of the charge to be borne by the delinquent; or by both, or either party: and of the sufficiency of all fences, whether partition fences or others. And where they judge any fence to be insufficient, they shall give notice thereof to the owners or possessors, and if any one of the said owners or possessors upon the request of the other, and due notice given by the said reviewers, shall refuse to make or repair the said fence or fences; or to pay the moiety of the charge of any fence before made, being a division fence, within ten days after notice given; then, upon proof thereof before two justices of the peace of the respective county, it shall be lawful for the said justices to order the person aggrieved, and suffering thereby, to repair the said fence, or fences; who shall be reimbursed his cost and charges, from the person so refusing to make good the said partition fence or fences; and the said cost and charges shall be levied upon the offender's goods and chattels, under warrant from the said justice, by distress and sale thereof; the overplus, if any be, to be returned to the party offending.

5. Sect. V. Nothing herein contained, shall be intended to prevent or debar any person or persons from enclosing his or their grounds, with sufficient walls or pallisadoes, or by dykes, hedges and ditches. All such walls and pallisadoes, to be, in height, at least five feet from the ground. And all dykes to be at least three feet in height, from the bottom of the ditch; and planted, or set with thorn, or quickset; so that such enclosures shall fully answer and secure the several purposes meant to be answered and secured by this law.

Provided also, That such walls and pallisadoes, and dykes, hedges, and ditches, shall be subject to all provisions, inspection and restrictions respectively, to which, by this law, any other enclosure or fence, is made liable, according to the true intent and meaning thereof.

6. Sect. VI. Every person, who, without leave of the owner or other person, having the same in care or charge, shall take away any boat or vessel, shall, for every such offence, pay ten dollars to the owner thereof, over and above the damages such boat or other vessel shall sustain, and over and above the expense of bringing back such boat or vessel; to be recovered as aforesaid, with costs, in any court of record. And where there shall be several offenders in one trespass, every person shall be liable for the whole penalty.

7. Sect. VII. If any person shall cut down, carry away, or destroy any cypress, white oak, black walnut, pacarn, or cherry tree, upon any lands, not his own, without first having the consent of the owner, he shall forfeit and pay the owner thereof, ten dollars for every such tree, so cut, carried away or destroyed; and for every other tree so cut, carried away or destroyed, without leave, as aforesaid, the sum of three dollars; except such trees as may be cut or taken out of, or for the use of public roads.

8. Sect. VIII. If any person shall throw down or open any gates, bars, fence or fences, enclosing lands not his own; or shall in any manner injure any building not his own, he shall be liable to such damages as shall be assessed by a jury, with costs, to be recovered as aforesaid.

WARRENTON.

Lottery authorised to erect levee . . 1
Commissioners for erecting levee 2
Money to be paid them . . 3
Vacancies how filled . . 4
Managers and commissioners personally liable . . . 5
Lottery, if not drawn, tickets may be returned 6

ACT of December 7, 1811. (Stat. p. 11.)

1. Sect. I. James Scarlett, Solomon C. Philips, John Evatt, Andrew Glass, Henry Maynadier and Thomas Dewitt be, and they are hereby appointed managers, and are authorised to raise by a lottery a sum not exceeding three thousand dollars, in cotton or money, or both, for the purpose of erecting a levee on the bank of the Mississippi river, in such manner as most effectually to secure the town of Warrenton, in Warren county, against the annual inundations of the said river.

2. Sect. II. Stephen Gibson, William Lewis, Jonas Griffin, Dennis Griffin, Samuel C. Grayson, Andrew Glass, Jacob Fleaharty, Marmaduke Sims, James Steel and Solomon C. Philips be, and they are hereby appointed commissioners to determine where, when, and in what manner the said levee shall be erected, and to contract and superintend for the doing the same; and a majority of the said commissioners shall constitute a quorum to do business, and they shall meet at such times and places as they may think proper.

3. Sect. III. The money raised by the aforesaid lottery shall be paid by the managers to the board of commissioners aforesaid, or into the hands of such of them as they themselves shall designate as a treasurer or treasurers for the board, to be by them appropriated for the purpose aforesaid.

4. Sect. IV. In case of death, resignation or removal from the county of any of the managers or commissioners, it shall be the duty of the majority of the said managers or commissioners, to appoint a successor or successors to fill such vacancy or vacancies.

5. Sect. V. The managers of said lottery and their successors, and also the commissioners appointed to contract for, and superintend the raising of the said levee and their successors be, and they are hereby made liable in their joint and in their individual capacity, for all contracts and engagements they may enter into relative to the premises.

6. Sect. VI. If the drawing of said lottery be not commenced within two years after the tickets are offered for sale, the holders of tickets shall be at liberty to return the tickets to the managers and demand the purchase money (if paid for) and if not paid for, to return the tickets which shall exonerate the said holders from payment thereof.

WEIGHTS AND MEASURES.

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One set for each county - - - 2
Keeper thereof, his oath, notice, to seal those of individuals, his fees 3
Penalty for selling by weights not sealed or stamped - - - - 4
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To furnish six set as soon as may be 6
How distributed - - - - 7
Keepers, their duty, and of persons &c. - - - - - - - - ib.
In what time citizens must comply 8
Appropriation - - - - - 9

ACT of February 4, 1807, (Dig. p. 363.)

1. Sect. I. The treasurer of the territory be, and he is hereby authorised and required to procure, as soon as may be, at the public expence, one set of weights and measures, viz.—one weight of fifty pounds, one of twenty-five, one of fourteen, two of six, two of four, two of two, and two of one pound avoirdupoise weight, according to the standard of the United States, if one be established, but if there be none such, according to the standard of London; with proper scales for weights, together with measures of one of the length of one foot, and one of one yard, cloth measure; and the measures of one half bushel, one peck and one half peck, dry measure; also the measures of one gallon, one of half a gallon, one of one quart, one of one pint, one of half a pint, and one of one gill, wine measure, according to the above named standards; and the said weights, measures and scales, shall be deposited with the said treasurer, to serve as a general standard for weights and measures within this territory, until otherwise directed by congress.

2. Sect. II. When the aforesaid weights, measures and scales, shall be provided as aforesaid, the treasurer shall cause to be made or procured for each county within this territory, at the public expence, one set of weights, scales and measures; and the last mentioned weights and measures shall be compared by the said treasurer, with the aforesaid general standard, and when found to agree therewith, shall be forthwith transmitted by him to the clerks of the several county courts in this territory.

3. Sect. III. The said weights, measures and scales, shall be kept by such person in each county, as the county court shall direct, who shall take the following oath, viz: "I, A. B. do solemnly swear, or affirm, as the case may be, that I will in all things act with justice and faithfulness in my appointment as keeper of the standard of weights and measures, for the county of , according to law, to the best of my skill and judgment. So help me God." And immediate-

ly after such appointment, the clerks of the several county courts shall make known the same by advertisement, to be fixed at the door of the court house, and also by inserting the same in one of the public gazettes of this territory. And all persons desirous of trying their weights, and measures, may resort to the aforesaid county standard for that purpose; and if they are found true, the person appointed to keep the said standard, shall seal them with a seal, to be provided by the county court, at the expence of the county; and the persons appointed in the several counties, to keep the said county standard, shall be entitled to receive for trying every steel-yard, and giving certificate therefor, and for trying any other weights and measures, and sealing the same, fifty cents each, to be paid by the person for whom such service is rendered or done.

4. Sect. IV. Three months after the appointment of a person to keep the said county standard shall have been made as aforesaid, every person or persons who shall sell any commodity whatever, by weight or measure that shall not correspond with the said county standard, or shall keep any such for the purpose of buying or selling with; shall for every such offence, forfeit and pay the sum of ten dollars: recoverable, before a justice of the peace, by any person who will sue for the same, and applied to his own use.

5. Sect. V. The territorial treasurer shall transmit to the clerks of the respective counties, the weights, scales and measures, as directed by the second section of this act, within twelve months from and after the passing hereof.

ACT of December 23, 1815. (Stat. p. 69.)

6. Sect. I. The treasurer of the territory be, and he is hereby authorised and required to procure as soon as may be, at the public expense, six sets of weights and measures as described in the act entitled "an act establishing weights and measures in the Mississippi territory," passed February 4th, 1807.

7. Sect. II. When the sets of weights, measures and seals shall have been procured by the treasurer as authorised by this act, one set shall be conveyed at the public expense to Huntsville in Madison county; one other sett to some place on or near Pearl river; one other set to the town of St. Stephens; one other set to the town of Mobile; one other set to the town of Woodville; and the sixth set to the town of Port Gibson; and be placed in the hands of some person to be appointed by the governor; and the sets of weights and measures hertofore procured shall be forthwith delivered to some person residing in the city of Natchez, to be appointed in the manner above described. And the keepers of weights and measures hereby authorised to be appointed, shall, previously to entering upon the discharge of their duties, take the oath or affirmation prescribed in the third sec-

tion of the act above recited, and the said keepers shall immediately after their appointment, make known the same by advertisement to be fixed at the door of the court-house of the counties in which they reside and also by inserting the same in the nearest newspaper published in this territory. And immediately after the appointment of the said keepers, all persons residing in any part of this territory and desirous to try their weights and measures, may resort to any of the aforesaid standards for that purpose; and if they are found true, the keeper of any of the said standards shall seal them with a seal to be procured by the said treasurer at the expense of the territory; and the persons appointed keepers as aforesaid shall be entitled to receive the fees prescribed by the third section of the act above recited, for the services therein specified.

8. Sect. III. Three months after public notice of the appointment of a person to keep the said standard in the city of Natchez, every person residing in any of the counties lying upon the Mississippi river, and that three months after public notice of the appointment of the other keepers of weights and measures hereby authorised to be made, every person residing in this territory, who shall sell any commodity whatever by weight or measure, that shall not correspond with the standard hereby established, shall for every such offence, forfeit and pay the sum of fifty dollars, recoverable before any justice of the quorum or of the peace to be paid to the county treasurer for county purposes.

9. Sect. IV. The sum of four hundred dollars in addition to the eight hundred dollars heretofore appropriated for the purpose of procuring weights and measures, be, and the same is hereby appropriated for the purposes specified.

WILLS, INTESTATES AND GUARDIANS.

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ACT of March 12, 1803, revised and amended, February 10, 1806. (Dig. p. 275.)

1. Sect. I. The justices of the county court of each count in this territory, shall, during the time of their holding such county court, hold and keep a court of record, to be styled and called "The Orphans' Court of the said county," for taking the probate of wills, and granting letters of administration on the estates of persons deceased, being inhabitants of, or resident in the same county, at the time of their decease, for appointing guardians to minors, ideots, lunatics, and persons *non compos mentis*, for examining and allowing the accounts of executors, administrators or guardians: with full jurisdiction of all testamentary and other matters pertaining to an orphans' court or court of prabate, in their respective counties.

2. Sect. II. Every person of the age of twenty-one years, of sound mind, lawfully seized of any lands, tenements or hereditaments, within this territory, in his or her own right, in fee simple, or for the life or lives of any other person or persons, shall have power to give, devise, and dispose of the same, by last will and testament, in writing: *Provided*, That such last will and testament be signed by the testator or testatrix, or by some person in his or her presence, and by his or her direction; and attested by three or more respectable witnesses, subscribing their names thereto, in the presence of such devisor; saving however to the widows of testators, their dower in lands, tenements, or hereditaments, so devised.

3. Sect. III. No nuncupative will shall be established, unless it be made in the time of the last sickness of the deceased, at his or her habitation, or where he or she had resided for the space of ten days or more, next preceding the time of making such will, except such person be taken sick from home, and die before his or her return to such habitation; nor when the value bequeathed exceeds one hundred dollars; unless it be pro that the testator called on the persons present at the time of making such will, or some of them, to take notice, or bear testimony, that such was his or her will, or to that effect.

Sect. IV. No probate of any nuncupative will shall be taken, or letters testamentary granted thereon, 'till after the expiration of fourteen days, from the time of the decease of the testator; nor till citation hath issued to call in the widow and other person or persons principally concerned, if resident in this territory; that they may appear and contest such will, if they see cause.

Sect. V. After the expiration of six months, from the time of speaking any pretended testamentary words, no testimony shall be received, to prove the same to be a nuncupative will, unless such words, or the substance thereof, were reduced to writing within six days after speaking the same.

4. Sect. VI. No will in writing, or bequest therein of goods and chattels, shall be revoked by any subsequent will, codicil, or declaration, unless the same be in writing: *Provided always*, That any soldier in actual military service, or mariner, or seaman, being at sea, may dispose of, and bequeath his goods and chattels, as he could have done before the passing of this act; any thing herein contained to the contrary notwithstanding.

5. Sect. VII. When any child shall be born after the death of the father, without having any provision made in his will, every such posthumous child shall have the same share of the estate of his or her father, that such child would have had, if the father had died intestate; and such share shall be assigned to him or her accordingly; to be taken in proportion from the legatees and devisees of such will.

6. Sect. VIII. All such estate, both real and personal, as is not devised or bequeathed in the last will and testament of any person, shall be distributed in the same manner as the estate of an intestate; and the executor or executors shall administer the same accordingly.

7. Sect. IX. If any person shall be a subscribing witness to a will, wherein any devise or bequest is made to such subscribing witness, and the will cannot be otherwise proved, the devise or bequest to such witness shall be void, and he or she compellable to appear and give testimony on the residue of the will in like manner, as if no such devise or bequest had been made. But if such witness would have been entitled to any share of the testator's estate, in case the will was not established, then so much of such share shall be saved to such witness as shall not exceed the value of the said devise and bequest, made to him or her in the said will.

Sect. X. If lands, tenements, or hereditaments shall be charged with any debt or debts, by any will or codicil; and the creditor, whose debt is so secured, shall attest the execution of such will or codicil, such creditor may notwithstanding be admitted as witness of the execution thereof.

8. Sect. XI. The widow may in all cases, waive the provision made for her in the will of her deceased husband, and claim her dower, which shall be assigned her accordingly; in which case she shall receive no part of such provision, unless it appears plainly by the will, that the testator intended it, in addition to her dower.

9. Sect. XII. If any testator shall have a mansion house or known place of residence, his will shall be proved in the orphans' court of the county wherein such mansion house or place of residence may be; but if he has no place of residence, and lands be devised in the will, it shall be proved in the county wherein the lands so devised are situate; or in one of them where there shall be lands so devised in several counties; and if he has no such known place of residence, and there be no lands devised, then the will may be proved either in the orphans' court of the county where the testator shall die, or that wherein his estate, or the greater part thereof, shall be.

10. Sect. XIII. When the subscribing witnesses to any will shall reside out of this territory, the court to which the probate of the said will may appertain, are authorised to issue a *dedimus potestatem*, to take the testimony of such witness in proof of said will, and receive the testimony so taken accordingly.

11. Sect. XIV. Authenticated copies of wills, proved according to the laws of any of the United States, or of any country out of the limits of the United States, and touching or concerning estates within this territory, may be offered for and admitted to probate in the said courts; but such will shall be liable to be contested and controverted in the same manner as the original might have been.

12. Sect. XV. If the court having jurisdiction as aforesaid, shall be informed that any person hath the last will and testament of a testator, such court is hereby authorised to compel such person, by proper process, to produce the same, and all original wills, after probate thereof, shall be recorded and remain in the register's office of the court wherein they are respectively proved, except during such time as they may be in the supreme court, or superior court of the district of Washington, having been removed thither for inspection by *certiorari* or otherwise; after which they shall be returned into the said office.

13. Sect. XVI. When any person shall die seized of any estate of inheritance in lands, tenements, or hereditaments, not devised, the same shall descend to his or her children and their descendants, in equal parts; the descendants of the deceased child or grand child to take the share of their deceased parent, in equal parts among them; and when there shall be no children of the intestate, nor descendants of such children, then to the brothers and sisters of the intestate, and their descendants, in equal parts; the descendants of a brother or sister of the intestate to have in equal parts among them their deceased parent's share; and where there shall be no children or descendants of them, or any of them, then to the father, if he be living; if not, to the mother of the intestate; and if there be no children of the intestate, or descendants of such children, and no brothers or sisters, or descendants of them, nor father or mother, then such estate shall descend

in equal parts to the next of kin to the intestate, in equal degree, computing by the rules of the civil law; and there shall be no representation among collaterals, except with the descendants of the brothers and sisters of the intestate—and there shall in no case be a distinction between the kindred of the whole and half blood, except the kindred of the whole blood in equal degree, shall be preferred to the kindred of the half blood in the same degree; saving to the widow of the intestate, in all cases her dower. And where there shall be no children of such intestate, nor descendants of them, then the widow shall have as her dower, one half of such before mentioned estate of her deceased husband.

Sect. XVII. When the estate of any testator or intestate, shall be represented insolvent, and shall not be sufficient, both real and personal, to pay the just debts, the widow of such testator or intestate, shall, though there be no children or descendants to them of such testator or intestate, be endowed with one third only, of the lands, tenements, and hereditaments of her deceased husband; any thing in this act to the contrary notwithstanding.

14. Sect. XVIII. Where a man having by a woman a child, or children, shall afterwards intermarry with such woman, such child or children, if recognized by him, shall be thereby legitimated.

15. Sect. XIX. The granting of letters of administration of the estate of any intestate, and the hearing and determining the right of the same, shall pertain to the orphans' court of the county, in which the intestate had at the time of his or her death, a mansion house, or known place of residence. And if he or she shall have no such known place of residence, then to the orphans' court of the county where the intestate shall die, or of that wherein his or her estate, or the greater part thereof, shall be. And the court taking the probate of any will, or granting letters of administration, and the executors or administrators thereby authorised, shall have the same jurisdiction, power and authority, in and over the decedent's estate, in any part of this territory, as if it were situate in the proper county of such orphans' court.

Sect. XX. If any person die intestate, or the executors named in any testament, renounce the executorship, or refuse or neglect, for the space of forty days after the death of the testator, to exhibit such statement for probate, then administration of the goods and chattels, rights and credit of such intestate, or of such testator, with the testament annexed, shall be granted to the widow, or the next of kin of such intestate or testator, or to some of them; and in case of their and each of their refusal, then to a principal creditor or creditors of such intestate or testator. And if none of them will accept thereof, then to such other proper person or persons as will accept the same.

16. Sect. XXI. The chief justice of the orphans' court of the county in which such justice resides, besides presiding in the orphans'

court in the term time, is hereby empowered and required to take, receive and audit all accounts of executors, administrators and guardians: to receive wills exhibited for probate, applications for administration, inventories and appraisements: and to order such inventories and appraisements, duly made and sworn to, to be recorded: to appoint guardians to minors, of their own election: to cause to be issued all citations, and other necessary process, returnable to the next term of said court: and wherever he may deem it necessary to appoint an administrator or administrators, to collect together the goods of the deceased, for the purpose of depositing them in the hands of the said chief justice; out of which he shall pay the debts of the deceased, and be liable in law as other administrators.

And the said chief justice, after examining and auditing such accounts, and causing them to be properly stated, shall report the same for allowance to the next term of the said orphans' court, the executor, administrator or guardian giving at least forty days notice of his intention of having such account presented to the said court for allowance at such term, by posting up notice thereof in three of the most public places in the county; or advertising the same for three weeks at least, in some public newspaper in this territory: whichever, and as the said chief justice shall have directed, and the court on due proof of notice as aforesaid, and no exception being made to the report of the chief justice, may decree an allowance of the account as stated: but if any person or persons, interested in the settlement of the said account, shall by himself or attorney, appear and make exception to the report, the court shall either proceed to hear the proofs and allegations, and correct or amend the mistakes or errors in the account as reported, or refer the same to auditors, who shall examine and restate the account after hearing parties and witnesses, and make report to the next or some subsequent term of the said court, for confirmation and allowance as aforesaid.

Sect. XXII. The said chief justice shall cause to be kept by the register of the orphans' court, a docket, in which shall be entered in vacation, the names of all accountants, applicants for the probate of wills, or for letters of administration, or guardianship, in the order, as to priority of time, such accounts were exhibited, or applications were made; to the end that such accounts may be allowed, and applications heard and determined at the next term of the said court; and shall moreover direct all necessary notices and citations to those principally interested: if in this territory, to appear and shew cause at the next term, why such applications should not be granted. *Provided*, That wills may be proved, and letters of administration and guardianship may be granted, where no application has been made to the chief justice, in vacation.

17. Sect. XXIII. The clerk of the county court of each county, shall, by virtue of his office, be register of the orphans' court of the same county; and shall take and subscribe an oath or affirmation in

open court, for the faithful discharge of the duties of his office. And it shall be the duty of the said register to keep and preserve all records, files, papers and proceedings of the said court, as an orphans' court, separate and distinct from the records, files and proceedings of the county court; to record all last wills and testaments, duly proved and approved: all accounts finally allowed; all inventories and appraisements duly made and sworn to; to issue all citations, subpœnas, and other process, as issue of course; and all such as are directed by the court in term time, or chief justice in vacation: and to do and perform all those things that appertain to the office of a register, or clerk of the said orphans' court. And the said register's office shall be under the direction of the court in term time, and of the said chief justice, in vacation.

SECT. XXIV. *Repealed March* 1, 1808.

18. SECT. XXV. Letters testamentary, letters of administration, and letters of guardianship shall be tested in the name of the said chief justice, and signed by the register. And all process issuing from the said court, shall be tested and signed in like manner: and bonds given by executors, (in such case as they are directed to give bonds) by administrators and guardians: and all other bonds taken in the said court, shall be made payable to the said chief justice, and his successors in office.

19. SECT. XXVI. Every orphans' court, granting letters testamentary, or letters of administration, shall nominate, and by warrant appoint three or more judicious and discreet persons, appraisers of the estate of the decedent, who shall return their appraisement on oath, in such time as the court shall appoint, of all the personal estate of such decedent to them shewn: which appraisement, if subscribed and sworn to by the executor or administrator, may be considered as an inventory of such part of the estate, as had theretofore come to his hands: and inventories, (which the executor or administrator in all cases shall return at the time limited by the court) and appraisements, may be given in evidence in any suit, by or against the executor or administrator; but shall not be conclusive for or against him, if it be shewn that the estate was really worth, or was, *bona fide*, sold for more or less than the appraisement.

20. SECT. XXVII. When any person shall die, possessed of goods and chattels, or personal estate not bequeathed, the same shall descend to and be distributed among his or her heirs, in the same way and manner that real estates, not devised, descend by this act: *Provided*, That the goods, chattels, or personal estate of any person deceased, whether testator or intestate, shall stand chargeable with the payment of all the just debts and funeral expences of the deceased, and the charges of settleing the said estate; and after the payment thereof, the surplusage, in case of intestacy, shall be decreed by the

orphan's court: one third thereof to the widow of the deceased person, unless the intestate died without children, or descendants of them; in which case she shall be decreed one half thereof forever: and the lands, tenements, and hereditaments of the testator, or intestate, shall stand chargeable with all the debts of the deceased, contracted after the passing of this act, over and above what the personal estate shall be sufficient to pay as aforesaid; saving to the widow, her dower, in all cases, as is before provided.

21. Sect. XXVIII. When any executor or administrator shall discover, or believe that the personal estate of his testator, or intestate, is sufficient to pay the debts of the deceased, then it shall be the duty of such executor, or administrator, as soon as may be, to make and exhibit on oath, a just and true account of the said personal estate and debts, as far as he can discover the same, to the orphans' court, or chief justice thereof: and the said court, or chief justice, shall thereupon cause a citation to issue, directing all persons interested in the lands, tenements, and hereditaments of the deceased, to appear before the orphans' court, at a certain day therein to be named; and not less than forty days after the time of issuing such citation; to shew cause why so much of the said lands, tenements or hereditaments, of the said testator, or intestate should not be sold as will be sufficient to pay his or her debts, or the residue thereof, as the case my require: which said citation shall immediately thereafter be set up in three of the most public places in the county in which such lands, tenements, or hereditaments be, for the space of thirty days; and be published for the same term of time in one of the public newspapers in this territory.

Sect. XXIX. The orphans' court, shall, at the time specified in the said citation, or at such other time as they may then appoint, hear and examine the allegations and proofs of the said executor or administrator, and of other persons interested. And if the said court on such examination, shall find that the personal estate of such testator, or intestate, is not sufficient to pay his or her debts, the said court shall order and direct the executor, or administrator, to sell the whole if necessary, of the lands, tenements, hereditaments of the said testator, or intestate, for the payment of his or her debts, or so much thereof as will be sufficient for that purpose; and when a part only, the said order shall specify what part. *Provided*, When any houses, lots, or lands, are so situated or circumstanced, that a part thereof cannot be sold without manifest prejudice to the heirs or devisees, the said court may, at their discretion, order the whole, or a greater part than is necessary to pay such debts, to be sold; and the overplus money arising from such sales, shall be distributed among the heirs or devisees, according to the law of descents in the former, and the will in the latter case. And the heir or devisee, whose lands, tenements, or hereditaments, so descending or devised, shall be sold as aforesaid, for the payment of the debt of the intestate or testator, may compel all others claiming or holding under such intestate or testator, to contribute in proportion to their respective interests, so as to equalise the burthen or loss.

Sect. XXX. Every executor, administrator or guardian, empowered by the orphans' court, or supreme or superior court, in chancery, to sell the lands, tenements, and hereditaments, or any part thereof, of any testator, intestate, ward, ideot, lunatic, or person *non compos mentis*, shall before he or she obtain the order of sale, from the office of register or clerk, enter into bond, with sufficient sureties, to the chief justice of the orphans' court of the proper county, that he or she will observe the rules and directions of law, for the sale of real estates by executors, administrators or guardians ; (as the case may be) and that he or she will well and truly account for the proceeds of the said sale ; and that the same shall be disposed of agreeably to the rules of law.

Sect. XXXI. The executor or administrator, who may be ordered to sell any lands, tenements or hereditaments, of any testator or intestate, shall give notice by advertisements, put up at three or more public places in the county, where the lands, tenements, or hereditaments are situate : of the time and place of selling the same : at least forty days before the time of sale ; and by publishing such advertisements in one of the public newspapers, in this territory, for three weeks successively, before such days of sale ; and shall at the time and place appointed, set up the said lands, tenements, and hereditaments for sale, at public vendue : upon a credit of twelve months, from the day of sale ; and strike off the same to the highest bidder ; who shall give bond with satisfactory security for the amount thereof ; and the executor or administrator making such sale, shall make report in writing, of all the proceedings thereon, to the next orphans' court, after such sale : *Provided*, That such executor or administrator may adjourn the said sale from time to time, not exceeding forty days in the whole.

Sect. XXXII. The said executor or administrator shall, and is hereby authorised to make a deed or deeds to the purchaser, or purchasers, to the lands, tenements, and hereditameuts so sold ; which deed or deeds shall vest in such purchaser or purchasers as good and perfect an estate in the premises therein mentioned, as the heirs or devisees of such testator or intestate were seized of, or entitled to, at the time of making the said order of sale by the said orphans' court.

22. Sect. XXXIII. When the estate, both real and personal, of any person deceased, shall be insolvent, or insufficient to pay all just debts which the deceased owed, the said estate, both real and personal, shall be distributed to, and among all the creditors, in proportion to the sums to them respectively due and owing ; saving that debts due for the last sickness, and necessary funeral expenses of the deceased, are to be first paid ; and the executor or administrator shall exhibit to

the orphans' court, or chief justice thereof, (before any debts paid to any creditor, except as aforesaid) an account and statement, as is directed in the twenty-eighth section of this act; including also the lands, tenements, and hereditaments of the testator or intestate. And if it appears to the said orphans' court, that such estate is insolvent, then after ordering the lands, tenements and hereditaments of the testator or intestate, to be sold as aforesaid, they shall appoint two or more fit persons to be commissioners, with full power to receive and examine all claims of the several creditors of such estate; and the said commissioners shall cause the times and places of their meeting to attend the creditors, for receiving and examining their claims, to be made known, by causing notifications to be posted up in such public places, and published in such newspaper or papers, as the said orphans' court, or chief justice thereof, shall direct; and six months, and such further time (as the circumstances of the estate may require) not exceeding eighteen months, shall be allowed by the said court to the creditors, for bringing in and proving their claims before the said commisssioners; at the end of which limited time the said commissioners shall make their report, and present on oath, a list of all the claims that shall have been laid before them; with the sums they shall allow on each respective claim, to the said orphans' court. And the said court shall order just recompense to the said commissioners, out of the deceased's estate. And the debts due for the last sickness and necessary funeral expenses being first deducted, the said court shall order the residue and remainder of the estate, both real and personal, (the real estate being sold according to law) to be paid and distributed by the executor or administrator, to, and among the creditors; who shall have made out their claims with the commissioners as aforesaid; in proportion to the sums unto them respectively due, and owing: *Provided*, That notwithstanding the report of any commissioner, the creditor, whose claim is wholly, or in part, rejected; or any executor, or administrator, who may be dissatisfied with such report, on a particular claim, may, for good and sufficient cause shewn by the said creditor, executors or administrators, to the said orphans' court, have the said claims referred by the said court, to referrees; whose report and award thereon, returned to the next term of the said court, and approved of, shall be final and conclusive.

And to the end that the executor or administrator may have an opportunity to ascertain the situation of the estate of the testator or intestate, no suit, or action shall be commenced or sustained against such executor or administrator, in such capacity, till after the expiration of six months, from the time of proving the will of the testator, or of granting letters of administration on the estate of the deceased. Nor shall any suit or action be commenced or sustained against him, after the estate of the testator or intestate be represented insolvent. Excepting, however, in all cases, actions for debts due for the deceased's last sickness and funeral expenses. Excepting also, that if the executor or administrator having objections to the claim on which any action (other than those last mentioned) may be brought, shall consent to have such claim settled by action at law; in such case the judgment of the court shall determine the claim, and be reported by the commissioners as such.

Every executor or administrator, after final apportionment of such distribution among the creditors of the testator or intestate, as aforesaid, shall be liable to the creditors for their respective shares in such distribution. And if any creditor shall not make out his claim with the commissioners within the time of their commission, or before referrees, or at common law, in the manner this act provides, he shall be forever barred of his debt or demand; unless such creditor shall find other estate of the deceased, not inventoried or accounted for by the executor or administrator before distribution.

SECT. XXXIV. Any creditor whose debt is not due, may exhibit it to the executor or executors, administrator or administrators, as if it were due; and thereupon shall be considered as a creditor under this act; and shall receive a dividend of the said testator, or intestate's estate; deducting a rebate of legal interest, for what he shall receive on such debt; to be computed from the actual payment thereof, to the time such debt would have become due.

23. SECT. XXXV. Executors, administrators and guardians, shall not be compelled to plead specially to any action, or suit at law, brought against them in their said capacity; but may under the general issue give any special matter in evidence.

24. SECT. XXXVI. The commissioners appointed to receive and examine the claims of the creditors to the estate of any person deceased, when reported insolvent, are hereby authorised and empowered, when judged expedient by a majority of them, to examine on oath or affirmation, any creditor, touching the truth of his or her claim; and may thereupon enquire of such creditor, the truth of any writing, demand, or the charges in any account exhibited as a claim against such insolvent estate; and whether the same, and every part thereof, remains actually due and unpaid; and may make such other questions relative thereto, as shall be material, and tending to discover the truth of such claim; and the said commissioners, or either of them, are hereby authorised and empowered to administer such oath or affirmation. And if any person, who shall have taken such oath or affirmation, (the same having been duly administered as aforesaid) shall thereupon wilfully and corruptly make any false answer or answers, to any question or questions, material to the determination of the truth of the claim; in proof of which, such oath or affirmation shall have been taken, and shall be thereof duly convicted; he or she so offending, shall be adjudged guilty of wilful and corrupt perjury, and liable to the pains and penalties thereof.

25. SECT. XXXVII. The orphans' courts of the respective counties

of this territory, and every of them, shall upon the respective granting and committing of administration of the goods and chattels of persons dying intestate, take of the respective person or persons, to whom such administration shall be granted, sufficient bonds, with two or more able sureties, to the chief justice of the said court, and his successors in office, in such penalty as the said court shall deem reasonable, (respect being had to the value of the estate) with condition and form, in manner following, to wit :—"The condition of this obligation is such, that if the above bound A. B. administrator of all and singular the goods, chattels, rights and credits of C. D. deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels, rights and credits of C. D. deceased, do make or cause to be made a true and perfect inventory of all and singular the goods, chattels and credits of the deceased, which have or shall come to the hands, possession or knowledge of the said A B. or into the hands or possession of any other person or persons for the said A. B. and the same so made, do exhibit, or cause to be exhibited into the register's office of the orphans' court of the county of , at or before the expiration of calendar months, from the date of the above written obligation; and the same goods, chattels and credits of the said deceased, at the time of death, which any time after come to the hands or possession of the said A. B. or into the hands or possession of any other person or persons for the said A. B. do well and truly administer according to law; and further do make, or cause to be made, a just and true account of administration, within calendar months, from the date of the above written obligation; and all the rest and residue of the said goods, chattels and credits, which shall be found remaining upon the account of the said administration, (the same being first examined and allowed by the orphans' court of the county aforesaid) shall deliver and pay unto such person or persons respectively, as are, or shall be by law, entitled to receive the same. And if it shall hereafter appear that any last will and testament was made by the said deceased, and the executor or executors therein named, or any other person or persons do exhibit the same into the said court, making request to have it allowed and approved; if the said A. B. being thereunto required, do render and deliver the said letters of administration, (approbation of such testament being first had and made) to the said court; then the above obligation to be void, otherwise to be and remain in full force and virtue."

Sect. XXXVIII. The like bonds, suited to the nature of the respective cases, shall be given by all executors, by administrators, appointed during the minority of an infant executor or administrator, by administrators appointed during the absence of the next kindred, by administrators appointed whilst a suit is pending, and by administrators who have a will annexed to their letters of administration, and by all other administrators, by whatever other name or description, they may be known or distinguished.

SECT. XXXIX. In case any bond shall become forfeited, it shall and may be lawful for the chief justice of the orphans' court, to cause the same to be prosecuted, at the request of any party grieved by such forfeitures; and it shall not become void upon the first recovery, but may be prosecuted from time to time, at the request of any party grieved, until the whole penalty be recovered thereon; and the monies recovered upon such bond shall be applied towards making good the damages sustained by the not performing the condition thereof, in such manner as the orphans' court, by their sentence or decree shall direct.

26. SECT. XL. The said orphans' court shall have full power, when letters of administration shall be granted upon insufficient security, to order and direct such administrators, to give further and sufficient security, by bond in the usual form. And if it appears upon examination, that any administrator hath embezzled, wasted, or misapplied all, or any part of the descendants estate: or shall neglect or refuse to give bond, with security as foresaid, the said court may forthwith revoke or repeal the letters of administration, and thereupon grant letters of administration to such person or persons, having right thereto, as will give bonds in manner and form aforesaid; who may have actions of trover, detinue, account, and the case for such goods or chattles, as come to the possession of the former administrators: and withheld, wasted, embezzled, detained, or misapplied, by any of them, and no satisfaction made for the same.

27. SECT. XLI. If any executor of any last will and testament, or administrator of an intestate estate, residing out of this territory, at the time of taking that trust, or afterwards removing out of the said territory, shall refuse or neglect, after due notice, from the orphans' court, to render his or their accounts: and make settlement of such estate, with creditors, legatees, or heirs, or their legal representatives; or if any executor or administrator shall become insane: or if any administrator becomes otherwise incapable of, or evidently unsuitable to discharge the trust reposed in him, the said orphans' court are authorised and empowered in each and every of the said cases mentioned in this section, to grant letters of administration, with the will annexed; or otherwise as the case may require, to such person or persons as may be entitled to the same, and as to the said court shall seem meet. And the administrator thus appointed, shall have the same power and authority to administer the estate of the deceased, not administered upon by such former executor, or administrator, and be subject to the same duties, in as full and ample a manner, as if the executor or administrator, so removed, or residing out of this territory, as aforesaid, were actually dead.

28. SECT. XLII. When two or more have letters of administration granted to them of any intestates' estate: and one or more of them take all, or the greatest part of such estate, and refuse to pay the

debts or funeral expences of such intestate, or refuse to account with the other administrator: in such case, the administrator so aggrieved, may have his action of account against the other administrator or administrators; and recover such proportionable share of such estate as shall belong to him; and any executor being a residuary legatee, may have an action of account against his co-executor or executors; and recover his part of the estate in the hands of such co-executor or executors; and any other residuary legatee may have the like remedy against the executors; and any person having a legacy bequeathed in any last will and testament, may sue for, and recover the same at common law.

29. Sect. XLIII. When any person, by last will and testaments, shall devise his or her real estate, or any part thereof, to two or more devisees, not ascertaining the metes and boundaries of each devisees share: any of whom being under age, and their shares undivided, such devisees may apply to the orphans' court of the county, in which the said last will and testament was proved and recorded: and the said court on application of any one of the said devisees, may order a division thereof to be made agreably to the true intent and meaning of the said last will and testament; and each devisees share shall be ascertained by three or five indifferent freeholders, appointed by the court; and a report made thereon, by them, or a majority of them, under their hands and seals, to the next orphans' court, after such division shall be made; such report being approved by the said court, and entered on the records thereof, shall be conclusive to all parties concerned. And when the real estate of any person dying intestate, shall descend to two or more children, or other heirs of such intestate, one or more of whom being under age, the said court on application may order and direct a division of such real estate, agreeably to the law of descents; the metes and bounds of each heir's share to be ascertained by three or five indifferent freeholders, appointed as aforesaid; and whose report, or that of a majority of them, returned, approved and recorded as aforesaid, in case of devisees, shall be conclusive on all parties concerned: *Provided*, That in each case, the report of the said freeholders shall be returned under oath: *And provided also*, That the devisees or heirs in this territory, or the guardians of such as are under age, not applying for such division, shall have such notice of the time and place of the meeting of the said freeholders, for the purpose of making the said division, as the court shall direct.

30. Sect. XLIV. The chief justice of the orphans' court, in each county respectively, when, and, so often as there shall be occasion, shall be, and hereby is empowered, to allow of guardians that shall be chosen by minors of fourteen years of age; and it shall be lawful for the said court to appoint guardians for such as shall be within, or under that age.

When any minor, above fourteen years of age, shall be cited by the said chief justice, to choose a guardian, and such minor shall refuse or neglect to appear, or when appearing, shall refuse to choose a guardian, or any guardian, chosen by such minor, shall be unable to give sufficient security, or shall refuse the trust: in every such case the orphan's court shall have the same power to appoint a guardian, as though such minor was under the age of fourteen years: *Provided nevertheless*, That when a minor above the age of fourteen years, shall choose a guardian, such minor may have that choice certified to the said chief justice, by a justice of the peace in the same county; which choice so certified, shall be deemed as good and valid, as if done in the presence of the said chief justice.

Sect. XLV. Every orphans' court, appointing a guardian to a minor of his or her own election, shall take bond of such guardian, with good securities, in a sufficient sum for the faithful execution of his office and trust.

Sect. XLVI. Every guardian in soccage, or other guardian shall, within three months after his appointment and acceptance of such office, deliver into the office of the register of the orphans' court, an inventory, on oath, of all the estate, real and personal, which he shall have received, or taken possession of, to be entered of record, and shall exhibit once in every year, and oftener, if thereunto lafully required, an account of the product of the said estate, and of the sale and disposition of such product, and disbursements; which accounts being examined and audited by the chief justice, in the same manner as executors or administrators' accounts; and reported fairly stated and supported by vouchers, and approved by the court, shall be recorded in the register's office.

Sect. XLVII. Any guardian, who shall not deliver in such inventory, or render such account, shall, by order of the orphans' court, to which he is answerable, be summoned, and if he remain in default, compelled to perform his duty, or be displaced. And the said court may, for any good and sufficient cause, displace a guardian: giving such guardian fourteen days previous notice, by citation; to appear and shew cause why he should not be displaced.

Sect. XLVIII. The orphans' court, when they at any time, shall know, or have cause to suspect, that the securities of a guardian, or any of them, are in failing or dubious circumstances, may require and compel such guardian to give additional security or sureties; and if he refuses or neglects so to do, may displace him.

31. Sect. XLIX. If the personal estate and rents, and profits of the real estate, be not sufficient for the maintainance and education of the ward. the orphans' court, on full investigation thereof, may, from time to time, order the guardians to sell such part of the ward's lands, tenements, and hereditaments, as they shall direct and judge adequate to his or her maintainance and education.

Sect. L. The lands, tenements and hereditaments, so ordered to be sold, shall be advertised by the guardian, in three of the most public places in the county; and in some public newspaper in this territory, for the space of forty days, previous to the time appointed for the sale thereof; and the guardian, at the time and place so advertised, shall sell the same at public vendue, upon a credit of twelve months, after the day of sale, to the highest bidder; who shall give bond, with satisfactory security, for the amount thereof; and shall make report in writing of his proceedings thereon, to the next orphans' court, after such sale; *Provided*, That the said guardian may adjourn the said sales, from time to time, at his discretion. And the said guardian shall make a deed to the purchaser for the lands, tenements and hereditaments, so sold: which deed shall vest in the said purchaser as good and perfect an estate in the premises, therein mentioned, as the ward was seized of, or entitled to, at the time of making the said order.

32. Sect. LI. The orphans' court are hereby authorised and empowered, within their respective counties, on request made by the or friends or relations of any ideot, lunatic or person *non compos mentis*; or by the overseer of the poor, for the district in which such ideot, lunatic person *non compos mentis* resides or is an inhabitant, by writ, to direct the sheriff of the said county to summon twelve good, discreet and lawful men of the county and neighborhood of the residence of such person, to make inquisition thereto, on oath; and if the person said to be an ideot, lunatic or *non compos mentis*, shall be adjudged by such inquisition, (or the major part of them) to be incapable of taking care of him, or herself; and they shall certify the same under their hands and seals, to the orphans' court, the said court shall assign some suitable person or persons to the guardian or guardians to such ideot, lunnatic or *non compos mentis*; directing and empowering such guardian or guardians to take care of the person and estate, both real and personal, of such ideot, lunatic or *non compos mentis*. And the said guardian or guardians shall make a true and perfect inventory of the said estate; and return the same within the same time, and account with the orphans' court, as often and in the same manner as guardians to minors are before directed by this act; and shall give bond and security in like manner; and the said court shall have the same power and controul over such guardian or guardians, to all intents and purposes, as over guardians of minors.

Sect. LII. It shall be the duty of such guardians to improve frugally, and without waste or destruction, the estate of the ideot, lunatic, or person *non compos mentis*; and apply the income and profits thereof to the comfortable maintainance and support of such ideot, lunatic or *non compos mentis*; and of his household or family, (if any there be) and the said guardian or guardians are hereby empowered to collect, sue for, and recover all just debts due to such ideot, lunatic or *non compos mentis*; and they shall also be subject to the payment of all just debts, owing by such person, which were contracted when he or she was of sound mind; and before his or her distraction or lunacy, out of the personal estate: or if that be insufficient, then out of the real estate, in such way and manner, as executors and administrators may by law discharge the debts of deceased persons, when the personal estate of such deceased is insufficient. And the said guardian and guardians shall have the same power and authority, by order of the orphans' court, to sell the lands, tenements and hereditaments of any ideot, lunatic or *non compos mentis;* for the purpose aforesaid; as by this act is given to executors and administrators, in similar cases; observing the same rules and restrictions. And the deed or deeds of conveyance of such guardian or guardians, shall have the same force, effect, and validity, to all intents and purposes.

Sect. LIII. If any such ideot, lunatic, or *non compos mentis,* shall be restored to the use of his or her reason, and sanity of mind, (and on application, the same be made appear to the orphans' court, who shall judge thereof) the residue and remainder of his or her estate, both real and personal, shall be returned and delivered to him or her, the guardian or guardians having such reasonable allowance for their charge and trouble, as the court shall order.

33. Sect. LIV. The sale and conveyance of lands, tenements and hereditaments directed or devised to be sold by any last will and testament, shall and may be made by the executors, or such of them as undertake the execution of the will; if no other person be therein appointed for that purpose; or if the person so appointed, shall refuse to perform the trust, or die before he shall have completed it.

34. Sect. LV. Within five years from the time of the first probate of any will, any person interested in such will, may by bill in chancery contest the validity of the same; and the court of chancery may thereupon direct an issue or issues in fact, to be tried by a jury as in other cases; and in all such trials, the certificate of the oath of the witnesses, at the time of taking the original probate, shall be admitted as evidence to the jury, to have such weight as they may think it deserves; but after the expiration of the said five years, the original probate of any will shall be conclusive and binding on all parties concerned, saving however to infants, *femes coverts,* persons *non compos mentis,* or absent from the territory; the like period of five years, from and after the removal of their respective disabilities.

35. Sect. LVI. If any person or persons shall be aggrieved by a definitive sentence, or judgment, or final decree of the said orphans' court, it shall be lawful for the party so aggrieved, to appeal therefrom to the next term of the supreme court in chancery, or in the district of Washington, to the superior court of the said district; and it shall be the duty of the orphans' court to allow such appeal, upon the appellants' giving bond, with good and sufficient security, approved of by the said court, and in such sum as they shall direct, to the chief

justice thereof; conditioned that the appellant shall prosecute the said appeal to effect, and perform the sentence, judgment or decree, which the said supreme or superior court shall make therein, in case the cause be decided against him or her; which bond may be put in suit in the name of the said chief justice; and the amount recovered thereon, applied as the said orphans' court shall direct, among those injured by breach of the condition thereof. And the said supreme or superior court, may at their discretion, on such appeal, direct an issue or issues, in fact, to be made up and tried, as in other cases; and the judgment, sentence, or decree, which the said court may render, on any such appeal, shall be certified to the orphans' court, from which such appeal was made; and thereupon entered on the records of the said orphans court, and made the judgment, sentence or decree thereof.

ACT of December 22, 1809, (Stat. p. 93.)

36. Sect. I. From and after the passage of this act, it shall not be lawful for any executor or executors, administrator or administrators, guardian or guardians, to take the estate or any part thereof, of any testator or intestate, at the appraised value, or to dispose of the same at private sale, except where the same is directed by the will of testator. But in all cases where it may be necessary to sell the whole or any part of the personal estate of any testator or intestate, that it shall be the duty of the executor, administrator or guardian, to apply to the orphans' court of their county for an order of sale, and upon obtaining the same to advertise the time and place of such sale, in three or more public places in their county, at least thirty days previous to the day of sale, and then and there proceed to sell the same at public sale to the highest bidder, giving at least six months credit, the purchaser giving bond with approved security.

ACT of December 3, 1810. (Stat. p. 24.)

37. Sect. III. The chief justice of the orphans' court in each and every county, shall have power in addition to those already given by law, and they are hereby suthorised, as often as they may deem it necessary and expedient, to hold a special orphans' court, for the purpose of taking probate of wills, granting letters testamentary, letters of administration and of guardianship, they giving fifteen days public notice of such special court by advertising in some public newspaper or at three public places in their respective counties, one of which shall be at the door of the court-house of the county: *Provided*, That if any person or persons shall consider him, her or themselves aggrieved by the judgment or decree of the chief justice of any county, they shall be entitled to an appeal therefrom to the next orphans' court to be holden for said county.

38. Sect. IV. So much of the twenty-first section of an act entitled "an act concerning wills and testaments, the settlement of intestate estates

and the duty of executors, administrators and guardians," as gives to the chief justice the power of appointing an administrator or administrators to collect together the goods of the deceased, for the purpose of depositing them in the hands of the chief justice, out of which he shall pay the debts of the deceased, and be liable in law as other administrators, be, and the same is hereby repealed, and in lieu therof, the chief justice, whenever he may deem it necessary, shall appoint an administrator or administrators, to collect the goods of the deceased, and in case the administrator or administrators so appointed shall commence a suit or suits, the same shall not abate by the appointment of an administrator or administrators in chief, but the suit or suits may progress for the use of the administrator or administrators in chief.

39. Sect. V. Whereas, it may sometimes become necessary to dispose of the crop belonging to the estate of deceased persons at private sale, *Be it therefore enacted*, That upon an application being made by any executor, administrator or guardian to the orphans' court of any county, or in vacation to the chief justice of said court, such court or chief justice, may grant an order for the sale of the crop belonging to the estate, in such manner as shall seem reasonable, and the situation of the estate require; and in all cases it shall be the duty of the court to require of the applicant, or applicants, an account of his proceedings under such order, to be rendered to the next orphans' court of their county.

ACT of December 21, 1812. (Stat. p. 81.)

40. Sect. I. Any person entitled to the distribution of an intestate's estate, may at any time after the expiration of twelve months from granting the letters of administration, petition the county court setting forth his claim, whereupon it shall be the duty of the said court to grant a rule on the administrator, administratrix or administrators (as the case may be) to make the distribution agreeably to law, but no administrator, administratrix or administrators, shall be compelled to make distribution at any time, until bond and security be given by the person entitled to distribution to refund a due proportion of any debts or demands which may afterwards appear against the intestate, and the costs attendant on the recovery of such debts.

41. Sect. II. Any person entitled to a legacy, or any estate by will, shall be entitled to the provisions of the foregoing sections as in case of administrators: *Provided*, That nothing herein contained shall be so construed as to compel any distributee to give bond and security as aforesaid, for his or her distribution of the estate of any intestate after a final settlement shall have been made by the administrator, or administratrix.

ACT of December 24, 1812. (Stat. p. 146.)

42. Sect. I. Where any person owning lands or tenements, shall sell the same, and enter into bond or obligation to make titles thereto;

and shall depart this life without having made titles, that then, and in that case, the person to whom such bond or obligation was given, their executors or administrators may petition the orphans' court, of the county where probate of the will of such deceased person was taken, or letters of administration granted, to compel the executors or administrators to make titles agreeably to the bond, or obligation given by the decedant, and it shall be the duty of such court, to cause their clerk or register, to cause notice of such petition to be published in some newspaper in this territory, once a month for at least three months, when the court may, if they find that the said contract was fairly made, order the executor or administrator to make titles as such, to the lands or tenements sold by their testator, or intestate, and any executor or administrator refusing to comply with such order, may by such court be imprisoned for contempt, until they will comply with the order of such court: *Provided*, That any person dissatisfied with the sentence or order of any petition as aforesaid, may take their appeal to the superior court, as in other testamentary cases.

ACT of January 21, 1814. (Stat. p. 30.)

43. Sect. I. From and after the passing of this act, it shall not be lawful for any executor or administrator, to require any bond, or note, payable and negotiable at the bank of the Mississippi, for property belonging to the estate of any testator or intestate, which such executor or administrator may sell at public sale by order of court.

ACT of December 23, 1815. (Stat. p. 55.)

44. Sect. I. If the commissioners appointed by the orphans' court of any county to receive and examine claims against the estate of any deceased person which has been by the orphans' court declared insolvent shall fail to make their final report within the time limited by law, it shall be the duty of such orphans' court to make new appointments or extend the time for the said commissioners to receive claims against such estate and report thereon to such time as shall to such court seem reasonable and just, any thing in the law to which this is an amendment to the contrary notwithstanding.

45. Sect. II. All claims against the estates of deceased persons shall be presented to the executor or administrator within eighteen months after the same shall have accrued, or within eighteen months after the passing of this act, or within eighteen months after letters testamentary or letters of administration shall have been granted to said executor or administrator, and not after; and all claims not presented within the time aforesaid shall be forever barred from a recovery: *Provided*, That the provisions of this section shall not extend to persons under age, feme covert, persons insane or non compos mentis, to debts contracted out of this territory, nor to claims of heirs or legatees claiming as such.

46. Sect. III. It shall be the duty of executors and administrators within two months after the granting letters testamentary or letters of administration to publish in some newspaper printed in this territory a notice requiring all persons having claims against the estate of their testator or intestate to exhibit the same within the time limited by law, or the same will be barred. Which notice shall state the time of granting such letters testamentary or letters of administration, and shall continue to be published once a week for six weeks.

47. Sect. IV. No sale by executor or executrix, administrator or administratrix, shall commence before the hour of twelve o'clock on the day which he set apart for the same, nor continue longer than the hour of five o'clock in the afternoon of such day; but in case the time aforesaid shall be insufficient to complete the sale of such estate intended to be sold, such executors or administrators may on such event continue such sale from day to day by giving public notice thereof to the attending company at the conclusion of the sale of each day, of such continuance; which continued sale shall commence and end within the hours aforesaid; and all such sales which may be commenced and held in any other manner than herein directed are hereby declared to be null and void.

APPENDIX.

ACADEMIES.

Amite academy, may raise money by lottery 1
Donation to Greene academy . 2
Donation to St. Stephen's academy ib.

ACT of December 6, 1816. (Stat. p. 29.)

1. Sect. I. The trustees of the academy of Amite county be, and they are hereby authorised to raise the sum of three thousand dollars, by one or more lotteries, for the use of that institution, in such manner, and under the superintendence of such persons as a majority of the said trustees may deem the most advisable.

ACT of December 13, 1816. (Stat. p. 80.)

2. Sect. I. For the purpose of aiding Jefferson college in carrying on the operations of the institution, the sum of six thousand dollars shall be, and the same is hereby loaned to said college for the term of five years, to be paid to the president of the said college in four equal annual instalments, to wit: one thousand five hundred dollars on the first day of January, 1817, 1818, 1819, and 1820; which money shall be used by the college in the employment of one or more teachers or professors for the institution; and it shall be the duty of the territorial treasurer to take from the trustees of the college, under the seal of the college used in their corporate name, bond in double the amount of each of said instalments, payable to the governor of the Mississippi territory, and his successors in office, conditioned for the payment of said instalments respectively in five years from the date of said bond, and also a mortgage to secure the payment thereof, on such real estate of said college as the said treasury may require; and it shall also be the duty of said treasurer to cause said bonds and mortgages to be proven and recorded in the office of the register of the orphans' court of the county of Adams, immediately after the execution of such bonds and mortgages respectively, and thereafter to keep the same among the papers of the treasury; which bonds and mortgages shall be put in suit by the said treasurer on the breach of the condition thereof, in any court of competent jurisdiction. And there is also hereby given and granted to the Greene academy and the St. Stephen's academy, each

the sum of five hundred dollars, to be paid out the territorial treasury, on the auditor's warrant, which warrant he is hereby required to issue on the order of the president of said academies respectively.

ATTORNIES GENERAL.

An attorney general to be appointed for certain counties	1
His salary	ib.
Attorney general west of Pearl river no longer required to keep his office at the town of Washington	2

ACT of December 6, 1816. (Stat. p. 30.)

1. Sect I. There shall be appointed an attorney general for the counties of Lawrence, Pike, Marion, Hancock and Jackson, who shall perform within said counties all the duties now required by law of the other attornies general of the territory, and be in all respects governed by the same laws.

Sect. II. The attorney general, authorised by this act to be appointed, shall receive as a full compensation for his services, the sum of three hundred dollars, to be paid out of any monies in the territorial treasury, not otherwise appropriated.

2. Sect. III. So much of the fourth section of the act entitled "an act concerning attornies general," passed on the 10th of February, 1807, as compels the attorney general, west of Pearl river, to establish his usual residence at the town of Washington, and all acts and parts of acts, coming within the meaning and purview of this act, be, and the same are hereby repealed.

BANK.

Bank established at Huntsville	1
Its capital	ib.
Subscription, when to open, and by whom	2
Time and mode for subscribers to pay	3
Incorporated, its limitation and powers	4
Directors and president	5
When directors may be chosen	6
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Remedy of bank *vs.* its debtors	9
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Remedy *vs.* bank	ib
After expiration of charter, may collect debts	10
Stockholders liable, as well as corporation for debts	11
Shares, reservation of, for territory	12
Governor to appoint directors accordingly	ib.

ACT of December 11, 1816. (Stat. p. 42.)

1. Sect. I. A bank shall be established in the town of Huntsville, in the Mississippi territory, the capital stock of which shall not exceed five hundred thousand dollars, divided into five thousand shares of one hundred dollars each.

2. Sect. II. Subscriptions towards constituting said stock shall be opened in the said town of Huntsville on the first Monday of February next, under the superintendence of Leroy Pope, John P. Hickman, David Moore, Benjamin Cox, John M. Taylor, Thomas Fearn, Jesse Searcy, Clement C. Clay and John W. Walker, or a majority of them, and shall remain open at least twenty days, and until the sum of fifty thousand dollars shall be subscribed.

3. Sect. III. The payments of said subscriptions shall be made and completed by the subscribers at the times and in the manner following, to wit: One eighth part thereof at the time of subscribing, three eighth parts thereof as soon as the bank may be carried into operation, when the directors shall give notice thereof by advertisement in some newspaper printed in the town of Huntsville, at least thirty days previously to the day on which the subscribers shall be required to pay the same, and the remainder in two equal instalments, at sixty, and one hundred and twenty days thereafter.

4. Sect. IV. The subscribers to the said bank, their successors and assigns shall be, and hereby are created a corporation and body politic, by the name and style of "The President, Directors and Company of the Planters' and Mechanics' Bank of Huntsvills," and shall so continue until the last day of December, one thousand eight hundred and thirty-seven, and by that name shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of whatsoever kind, nature and quality, to an amount not exceeding, in the whole, six hundred and fifty thousand dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any suit, action, matter or thing depending in any court of law or equity; and also to make, have, and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution such bye-laws and ordinances and regulations as they shall deem necessary and convenient for the government of the said corporation, not being contrary to the constitution thereof, or the laws of the United States or the territory; and generally to do and execute all and singular the acts, matters and things which to them may appear necessary, or which to them it shall or may appertain to do, as incident to bodies corporate; subject, nevertheless, to the rules, regulations, restrictions, limitations and provisions hereinafter prescribed and declared.

5. Sect. V. For the management of the affairs of the said corporation, there shall be thirteen directors annually elected at the banking house in Huntsville, on the first Monday of January in each year, by the qualified stockholders of the capital of the said bank, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed; and the directors so duly elected, shall be capable of serving by virtue of such choice, from the first Monday in the month of January in each year, until the end and expiration of the first Monday in the month of January of the year next ensuing the time of each annual election, to be held by the stockholders as aforesaid; and the board of directors annually at the first meeting after their election, in each and every year, shall proceed to elect one of the directors to be president of the corporation, who shall hold the said office during the same period for which the directors are elected as aforesaid: *Provided always*, That the first election of the directors and president of the said bank shall be at the time and for the period hereafter declared. *And provided also*, That in case it should at any time happen that an election of directors, or an election of the president of the said bank, should not be so made as to take effect on any day, when in pursuance of the act they ought to take effect, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful at any other time to hold such elections, and the manner of holding the elections shall be regulated by the laws and ordinances of the said corporation; and until such elections be held the president and directors of said bank, for the time being, shall continue in office. *And provided also*, That in case of the death, resignation or removal of the president of the said corporation, or of his absence from the territory for more than six months, the directors shall proceed to elect another president from the directors as aforesaid; and in case of the death, resignation, removal from office, or absence of a director, the vacancy may be supplied by a majority of the board.

6. Sect. VI. As soon as the sum of fifty thousand dollars shall be subscribed, notice thereof shall be given by the superintendents in all the newspapers printed in the town of Huntsville; and the said superintendents shall at the same time and in like manner, notify a time and place in said town of Huntsville, at the distance of at least fifteen days from the time of such notification, for proceeding to the election of thirteen directors as aforesaid; and it shall be lawful for such election then and there made, and the persons who shall be elected as aforesaid, shall be the first directors of the said bank, and shall proceed to elect one of the directors to be president of said bank; and the directors and president of the said bank so elected, shall be capable of serving in their respective offices by virtue thereof, until the end and expiration of the first Monday of the month of January next ensuing the said election; and they shall then and thenceforth commence and continue the operations of the said bank at Huntsville.

7. Sect. VII. The directors, for the time being, shall have power to appoint a cashier and such officers, clerks and servants under them

as shall be necessary for executing the business of the said corporation, and to allow them such compensation as shall be prescribed, fixed and determined by the laws, regulations and ordinances of the same.

8. SECT. VIII. The following rules, regulations, limitations and provisions shall form the fundamental articles of the constitution of the said corporation, to wit:

1st. The number of votes to which the stockholders shall be entitled in voting for directors, shall be according to the number of shares he, she or they hold, in the proportions following, that is to say: for each and every share, not exceeding five, one vote; for every two shares above five, and not exceeding nineteen, one vote; for every three shares above nineteen, and not exceeding forty-nine, one vote; for every four shares above forty-nine, and not exceeding seventy-three, one vote; for every six shares above seventy-three, and not exceeding ninety-seven, one vote; and for every eight shares above ninety-seven, one vote; but no person, copartnership, or body politic, shall be entitled to a greater number than one hundred votes; and after the first election, no share or shares shall confer a right of voting which shall not have been holden three calendar months previous to the day of election; and stockholders may vote by proxy.

2d. Not more than three-fourths of the directors who shall be in office at the time of an annual election, shall be elected for the next succeeding year; and no director shall hold his office more than three years out of four in succession; but a director who shall be a president at the time of an election, may always be re-elected.

3d. None but a stockholder, a resident citizen of this territory, shall be a director; nor shall any director be entitled to any emolument, but it shall be lawful for the president to receive such compensation as the stockholders shall at a general meeting assign to him.

4th. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by another director, whom he, by writing under his hand, shall depute for that purpose; and the director, so deputed, may do and transact all the necessary business belonging to the office of the president of the said corporation, during the continuance of the sickness or necessary absence of the president.

5th. It shall be lawful for the directors to call a general meeting of the stockholders at any time they may deem it necessary and expedient, and a number of stockholders not less than twenty, who together shall be proprietors of one hundred shares, or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least six weeks notice in the newspapers of Huntsville, and specifying in such notice the object or objects of such meeting.

6th. The cashier or treasurer, and the other officers, clerks and servants of the corporation, shall, previously to entering on the duties of their offices, respectively, give bond, with such security and in such form as the directors shall require, conditioned for the faithful discharge of their duties respectively.

7th. The directors shall have power at all times, giving at least forty days notice, to open subscriptions for stock, until the whole capital of five hundred thousand dollars shall be subscribed: *Provided*, That no person, copartnership, or body corporate, shall subscribe for more than twenty shares within the first six days after the subscription shall be open

8th. The total amount of the bills emitted by the corporation shall never exceed three times the amount of the capital stock actually paid in; and in case of excess, the directors, under whose administration it shall happen, shall be liable for the same in their natural and private capacities, and an action of debt may, in such case, be brought against them, or either of them, or any of their heirs, executors or administrators, in any court of record in this territory, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution; any condition, covenant or agreement to the contrary notwithstanding; but the corporation shall not on account of this provision be the less liable for, and chargeable with the said excess; such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was contracted or created, may respectively exonerate themselves from being so liable by forthwith giving notice of the fact, and of their absence or dissent, to the stockholders at a general meeting, which they shall have power to call for that purpose.

9th. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf by the laws and ordinances of the same.

10th. The corporation shall not take more than at the rate of six *per centum per annum*, for or upon its loans or discounts.

11th. The bills obligatory, and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by indorsement, under the hand or hands of said person or persons, and his, her or their executors and administrators, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees, successively, and to enable such assignee or assignees and his, her or their executors or administrators, to maintain an action thereupon, in his, her or their own name or names: *Provided*, That said corporation shall not make any bill obligatory or of credit, or other obligation, under its seal for the payment of a sum less than five hundred dollars, and the bills or notes which may be issued by order of said corporation, signed by the president and countersigned by the cashier thereof, promising the payment of money to any person or persons, his, her or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same in like manner, and with like force and effect as upon any private person, if issued by him, her or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons, that is to say: those which shall be payable to any person or persons, his her or their order, shall be assignable by endorsement in like manner, and with the like effect as foreign bills of exchange now are; and those which are payable to bearer, shall be assignable and negotiable by delivery: *Provided*, That all bills or notes so to be issued by said corporation shall be made payable on demand, other than bills or notes for the payment of a sum not less than fifty dollars each, and payable to the order of some person or persons, which bills or notes it shall be lawful for said corporation to make payable at any time not exceeding sixty days from the date thereof.

12th. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in three years the directors shall lay before the stockholders at a general meeting, for their information, an exact and particular statement of the debts which have remained unpaid after the expiration of the original credit for a period of treble the term of that credit, and of the surplus of the profits, if any after deducting losses and dividends; if there shall be a failure of the payment of any part of any sum subscribed to the capital of the said bank by any person, copartnership or body politic, the party failing shall loose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

13th. No note shall be issued of less amount than one dollar.

9. Sect. IX. If any person or persons shall be indebted to said corporation as maker or endorser of any note, bill or bond, expressly made negotiable and payable at the said bank, and shall delay payment thereof, it shall be lawful for the corporation, after having given at least ten days notice thereof, and producing to the court before whom the motion is made, the certificate of the president of the bank that the debt is really and *bona fide* the property of the bank, to move for judgment and the award of execution against such debtor or debtors, his, her, or their heir or heirs, executors or administrators, in any court of record within this territory: *Provided always*, That if the defendant or defendants shall appear and contest the claim, the court shall *instanter* empannel a jury to try the issue, and thereon give judgment accordingly: *And provided also*, That no note, bill, or bond, shall be negotiable at said bank, unless it shall be so expressed on the face of such note, bill, or bond; and all debts due from the said corporation by bond, bill, note or otherwise, to any individual or body corporate, may be sued for and recovered in like manner.

10. Sect. X. Notwithstanding the expiration of the time for which the said corporation is created, it shall be lawful to use the corporate name, style and capacity for the purpose of suits, for the final liqui-

dation and settlement of the affairs and accounts of the corporation, and for the sale and disposition of their estate real, personal and mixed, but not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years after the expiration of the said term of incorporation.

11. Sect. XI. For all debts contracted by said corporation, either by bond, bill or note, or other contract, the stockholders, at the time the said debt or debts may have been contracted, shall be liable for the same in their natural and private capacities, in proportion to the number of shares by them held, and may be proceeded against therefor, jointly or severally, in any court having jurisdiction of the same; but this provision shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same from being also liable.

12. Sect. XII The directors of said bank shall, for and during the term of ten years, reserve for the territory or state in which the bank may be in operation, five hundred shares in said bank, and at any time the legislature of the state or territory shall have the aforesaid five hundred shares, or any part thereof, subscribed for; then the governor of the state or territory shall have power to appoint a number of directors, proportionate to the number of shares held by the territory or state in said bank; and the stockholders shall at the next annual election proceed to the election of the residue of the directors as authorised by this act; and the territory or state shall be liable for all debts contracted by said bank in their capacities as such, to the extent of the interest held by the territory or state in said bank.

BASTARDY.

Trial by jury in county court . . . 1
Reputed father not to be appointed guardian 2

ACT of December 10, 1816. (Stat. p. 37.)

1. Sect. I. Hereafter, whenever a case of bastardy shall be returned to the county court under the authority of the act to which this is an amendment, the said county court shall have power and authority to cause to be summoned and empannelled a jury in the same manner as tales jurors are summoned, for the purpose of trying the issue of bastardy, if the defendant or reputed father shall demand the same; any thing in the act entitled "an act to create a supreme court, and establish a court of errors and appeals," to the contrary notwithstanding.

2 Sect. II. So much of the seventh section of the act to which this is an amendment, as authorises and requires the court to select and appoint the reputed father the guardian to such child, be, and the same is hereby repealed.

COUNTIES, TOWNS AND COURT-HOUSES.

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Adams county, mode of establishing seat of justice, commissioners to be elected, to fix on site, and erect buildings . . 22
Tax therefor 23

ACT of November 25, 1816. (Stat. p. 5.)

1. SECT. I. The county court of Wilkinson county shall, at their first terms in the years one thousand eight hundred and eighteen, and one thousand eight hundred and nineteen, by a further special tax upon the taxable property of said county, in like proportion, and equal to one half of the territorial tax, each year, for the purpose of completing said jail and pillory, to be collected and paid over in the same manner as the tax heretofore provided; and that Hays G. White, John S Lewis, and Hugh Connell, be, and they are hereby appointed commissioners to act in conjunction with the commissioners already appointed, a majority of whom shall have power to act.

ACT of November 27, 1816. (Stat. p. 19)

2. SECT I. The place situate on the east side of the Tombigby river, in the county of Clarke, heretofore known as the Pine Level,

alias Republicville, be hereafter known and distinguished by the name of the "town of Jackson," and that the boundaries of said town be designated by a line commencing on the east bank of said river at the mouth of Bassett's creek, running thence up said river to the mouth of a creek emptying into the river at Shields's ferry, thence up the main eastern fork of said creek to Philips's spring, thence across a ridge in a direct line to the school-house spring, about one mile and a half, in a direction nearly north from the centre of said town; thence down the branch of the last mentioned spring to where it empites into said Bassett's creek, thence with said creek to the place of beginning.

SECT. II. The "town of Jackson," as above described, be, and the same is hereby incorporated; and it shall be the duty of the proprietors of said town, within three months after the passage of this act, to have the plan of said town recorded in the clerk's office of the county court of the county aforesaid.

SECT III. The free white male citizens of said town, twenty-one years of age, and upwards, be, and they are hereby authorised, on the first Monday in March annually, or as soon thereafter as convenient, at such house in said town as they may agree upon, to hold an election, the first under the superintendence of one or more justices of the peace, or of the quorum, of said county, to commence at the hour of ten in the forenoon and close at the hour of three in the afternoon, and then and there to elect by ballot five persons, inhabitants of said town; a majority of whom shall at all times constitute a quorum to do business; also, a town treasurer, assessor, collector and constable, to serve for one year, and until successors be appointed: said constable to be commissioned as such by the governor; said commissoners shall on the next day succeeding such election, in each year, or as soon thereafter as convenient, meet and choose from their own body a president, who shall be commissioned by the governor as a justice of the peace for the town of Jackson, to continue in office until a successor be appointed, after the next annual election. It shall be the duty of said president to preside and keep order at the meetings of said commissioners; and in case of the absence or incapacity of the president, at any time, a president *pro tempore* may be appointed; and the said commissioners shall be, and they are hereby appointed a body politic and corporate, by the name and style of the "president and commissioners of the town of Jackson," and by that name they and their successors shall be capable in law of suing and being sued, of pleading and being impleaded, in all manner of suits and actions, in either law or equity; and also, to do all acts which are incident to bodies corporate.

SECT. IV. The said president and commissioners in office at the time of holding the annual elections, in each year, shall remain and continue in office until successors be duly elected; and it shall be the duty of said commissioners, or any two of them, to preside at the elections, and declare the persons duly elected; and when on counting the ballots, there shall be an equal number of votes for two or more candidates, then the president shall give the casting vote, and shall vote in no other case; and in case the whole number of commissioners authorized by law at any election, be not then elected, or if no election shall be had on that day, or in case of a vacancy occuring by the death, resignation, removal from said town, or refusal to act of any of the commissioners, the town treasurer, assessor, collector, or constable, it shall be the duty of the commissioners then remaining in office, to appoint another day by public notice given by advertisement in said town, at least five days previous thereto, for holding an election to fill such vacancy.

SECT. V. The president and commissioners, in each and every year, shall have power and authority to raise such sum or sums of money as they shall think necessary for the well regulation of said town; which sum or sums shall be assessed upon the inhabitants residing within said town, by the assessor according to the regulations to be established by the president and commissioners, and collected by the collector at such time, and be paid and disposed of in such manner as the said commissioners shall provide: *Provided*, That the sum assessed and collected annually, shall not exceed the sum of twelve and a half cents on every hundred dollars worth of property within said town, unless agreed to by a majority of the landholders, freeholders and householders residing within the town aforesaid; and the president and commissioners are hereby authorised to lay a tax on carts, drays, waggons, or other vehicles of transportation; but such only as are employed in transporting for pay or compensation, any article whatsoever from one place to another, within the limits of said town; as also, on all retailers of spirituous liquors, a sum not exceeding ten dollars per annum.

SECT. VI. The said president and commissioners shall meet on their own adjournments, and shall have power from time to time, and at all times hereafter, to make such bye-laws and regulations in writing, not inconsistent with the laws of the United States, or of this territory, as to them shall appear necessary for the good government of said town; and the same to put into execution, revoke and alter as to them shall appear expedient. They shall also appoint their own clerk, a clerk of the market, when necessary, and such other subordinate officers as they may think necessary for the good government, and by ordinance to require such security from the several officers and to annex such fees to the several offices of the corporation, and to impose such fines and amercements for the neglect of duty or misconduct in office, as to them shall appear necessary; and to make, limit, and impose and tax reasonable fines and amercements, in any one case not exceeding twenty dollars, against all persons who shall offend against the laws, ordinances and regulations of the corporation, made as aforesaid; and all such fines and amercements to take, demand, require and levy of the goods and chattels of such offender, by warrant issued under the hand and seal of the president, directed to the town constable, who is hereby required and authorised to execute the same; which fines shall be paid to the town treasurer, to be appropriated to the use and benefit of the inhabitants of the town.

Sect. VII. The said president and commissioners shall have power to lay out and establish, or to alter all needful roads and highways leading out of said town, as far as the limits of the jurisdiction thereof, and to keep the same in repair with the hands belonging to said town, to the exclusion of the jurisdiction of the county court of the county.

ACT of December 6, 1816. (Stat. p. 24.)

3. Sect. I. The county at present called and known by the name of Monroe, be, and the same is hereby divided in the following manner, to wit: Commencing on the western extreme of said county, at the north boundary of the 13th township; running thence east along said township line to the eastern bank of the Alabama river; thence down the same to the north boundary of the eleventh township; thence east along the last mentioned line, until it intersects the southern boundary of the creek nation; and all that tract of territory, formerly a part of Monroe county, lying north of the lines thus described, shall form a new county, hereafter to be called and known by the name of Montgomery.

4. Sect. II. For the time being, the place of holding courts in and for the county of Montgomery, shall be at Fort Jackson, at such house as the presiding judge or justices of each respective court may fix on as most suitable and convenient; and may, at the discretion of the courts, be adjourned for the want of necessary buildings, to some convenient place contiguous thereto.

ACT of December 11, 1816. (Stat. p. 39.)

5. Sect. I. The town laid out in the county of Pike, whereon the public site of justice is fixed in said county, shall be hereafter known and distinguished by the name of Holmesville, in honor of the late major Andrew Hunter Holmes.

ACT of December 11, 1816. (Stat. p. 39.)

6. Sect. I. Nothing in the act to which this is an amendment, shall be so construed as to authorise the president and commissioners of the town of Jackson, to levy and impose taxes or to order, and establish new roads beyond the limits of the three quarter sections of land, known as the Jackson company purchase, and that part of the ferry

fraction between said lands and the river, which lies south of the branch empting into said river at Shields' ferry, any thing therein to the contrary notwithstanding.

ACT of December 11, 1816. (Stat. p. 40.)

7. **Sect. I.** Daniel Vertner, Thomas Barnes, William Willis, Waterman Crane, Parmenas Briscoe and Henry G. Johnston, be, and they are hereby appointed commissioners to contract for, and superintend the building of a court-house in the town of Gibson-Port, Claiborne county, in such manner and on such plan as they or a majority of them may think expedient, and the said commissioners are hereby required to take bond with good and sufficient security, payable to the chief justice of the orphans' court of said county, and his successors in office, from such person or persons as may contract to build the said court-house, for the true and faithful performance of his or their contract.

Sect. II. For the purpose of meeting the contract of the said commissioners, there shall be levied by the county court of said county, the sum of four thousand dollars, payable in four equal annual instalments, by a special county tax, upon such persons and property as are liable to pay territorial tax, which tax shall be assessed and collected in the same manner, and at the same time, as is directed by law for collecting the territorial tax, and it shall be the duty of the tax collector of Claiborne county to pay over to the commissioners appointed by this act the sums so collected, on or before the first day of October, in each year aforesaid, and on failure so to do, the said commissioners, or a majority of them, shall have the same mode of proceeding and recovery against the collector that is by law given to the auditor of public accounts against defaulting tax collectors; and the said tax collector shall be entitled to the same *per centum* for collection that he is entitled to by law for collecting the territorial tax.

ACT of December 12, 1816. (Stat. p. 62.)

8. **Sect. II.** The justices of the said county court be, and they are hereby appointed commissioners to contract for, and superintend the completion of the public buildings in said county.

9. **Sect. III.** The said commissioners are hereby authorised and empowered to purchase a suitable lot or parcel of land, lying and being within the town of Huntsville, whereon to fix the jail of said county.

10. **Sect. IV.** For the purpose of defraying the expense of completing the court-house, jail and pillory, and purchasing said lot or parcel of ground, the county court be, and they are hereby authorised and empowered to draw on the county treasurer for two hundred and fifty dollars, at each term of the county or intermediate court, or so much thereof as will be sufficient for the same, out of any monies not otherwise appropriated.

11. **Sect. V.** As soon as the same is completed, it shall be the duty of said commissioners to lay their accounts before the county treasurer, whose duty it shall be to examine and record the same in his office.

12. **Sect. VI.** All acts and parts of acts coming within the meaning and purview of this act, be, and the same are hereby repealed.

ACT of December 12, 1816. (Stat. p. 67.)

13. **Sect. I.** The following persons, viz: Shadric King, Thomas Mercer, Abraham Perkins, David Burney, and Solomon Evans, be, and they are hereby appointed commissioners to contract for and superintend the erection of the court-house, jail and pillory, in and for the said county of Lawrence, in such manner and upon such a plan as they, or a majority of them shall deem most expedient, and in their discretion to proceed to the erection of all, or any part of the said buildings at the same time: and the said commissioners are required to take bond and security drawn in their favor, for the use of said county, from the undertaker or undertakers of the said buildings, for the faithful completion of said business according to contract.

Sect. II. At the request of the said commissioners or a majority of them, the chief justice of the orphans' court of said county, shall on or before the first Monday of February next, cause a special meeting of the county court of said county, and levy a special tax for the purpose of defraying the expences attendant on the erection of said public buildings, for the year 1817; and shall also meet on the first Monday in each of the years 1818, and 1819, and levy a tax for the years last aforesaid, for the purpose aforesaid, upon all such persons and property as may be the subject of territorial taxation, which tax shall not exceed one half of the territoral tax for the respective years in which it may be levied and assessed, and collected in the manner directed by law, for the collection of the territorial tax, and paid over to the said commissioners to be applied to the use aforesaid.

Sect. III. The commissioners heretofore appointed by law, to fix upon the public site of justice of the said county of Lawrence, are hereby required to transfer all bonds, notes and other writings drawn in their favor for the said county to the commissioners appointed by this act; and upon such transfer, the commissioners herein appointed may sell and convey, or cause to be conveyed, upon such terms as they may deem expedient all or any part of the lots remaining unsold in the town of Monticello, donated to said county, and make or cause to be made, and execute titles to such lots as may have been sold by their predecessors, and all money collected on any of said bonds, notes or other writings, as well as the proceeds of the sales of the said lots, shall be applied to the use directed by this act.

14. **Sect. IV.** The justices of the county court of Pike county be,

and they are hereby authorised to assess a tax on the said county not exceeding in one year, one half of the territorial tax for and during the period of three years, from the passage of this act, which money shall be collected in the same manner, and by the same persons, as the territorial taxes; and the collector shall retain in full compensation for his services, the same fees as are allowed by law for the collection of the general tax, and the amount of such tax when collected, shall be paid over by the collector aforesaid, to the commissioners appointed by the third section of the act entitled "an act for the division of Marion county, establishing a county by the name of Pike, and for other purposes," who are hereby authorised and required to appropriate the same to the erection of a suitable court-house, jail pillory and stocks, for the use of the said county; and the collector aforesaid, before he enters on the duties of his office, shall enter into bond with sufficient security, payable to the chief justice of the orphans' court of the county aforesaid, and to be approved of by him, in the sum of one thousand dollars, conditioned for the punctual performance of the duties required of him by this act.

15. Sect. V. The several sheriffs for the counties of Lawrence, Pike, Marion and Hancock, are hereby made the returning officers of their respective counties, under the law regulating elections for members in the territorial legislature, and representatives in congress.

ACT of December 12, 1816. (Stat. p. 72.)

16. Sect. I. Robert Cochran and William Briscoe of Claiborne county, and John J. W. Ross and Joseph Dunbar of Jefferson county, be, and they are hereby appointed commissioners to superintend the running and marking out the line between the counties of Jefferson and Claiborne, as prescribed and established by law.

Sect. II. The said commissioners shall each be entitled to receive for every day's attendance three dollars, one half to be paid out of the county treasuries, of each of the counties respectively.

Sect. III. The said commissioners shall make a report of their proceedings to their respective county courts, which shall be recorded in the clerks' offices of said counties.

ACT of December 12, 1816. (Stat. p. 75.)

17. Sect. I. The president and commissioners of the town of Mobile be, and they are hereby authorised and empowered to appoint port wardens for the said town, and pilots for the channels and passes leading from the sea to the said town; surveyors of lumber and inspectors of flour and salted provisions, imported or exported; and to determine their fees or commissions; which said fees shall be reasonable, and such as are usually allowed in other southern ports of the United

States, for similar services, and to make such rules and regulations respecting them as may not be contrary to the constitution or laws of the United States, or the ordinance or the laws of this territory; and relating to the establishment of a board of health, as may by them be deemed expedient under the restrictions above mentioned. It shall be the duty of the said president and commissioners to take bond and security in such an amount as shall by them be thought fit, from all the persons who may be appointed as aforesaid, conditioned for the faithful performance of their duties; and the said bond may be put in suit at the instance of any one aggrieved by the acts or neglect of the person or persons so appointed, and such damages be recovered as may be assessed by a jury, as often as necessity may require, until the whole penalty be exhausted: *Provided*, That the said president and commissioners shall not by any regulations made by them, require any coasting vessel navigating any of the channels or passes leading from the sea to said town of Mobile, to take a pilot on board.

18. Sect II. No person shall vote at any election for president and commissioners, assessor and collector for the said town, unless he be twenty-one years of age, and shall have been a freeholder in said town, or the tenant of a house or separate room at least six months previous to any election, and shall have paid a county, territorial or corporation tax, nor unless he be a citizen of the United States, or shall have resided within that part of West Florida, now in the possession of the United States, at the time of the change of government in that province. And the said president shall, when commissioned by the governor, have power to decide finally upon all cases arising under the by-laws made for the said town.

19. Sect. III. All persons residing, or who may hereafter reside in the said town of Mobile, and who would be liable to work upon the roads in the county of Mobile, if the said town had not been incorporated, shall be compelled to perform all the duties imposed by the laws of this territory relating to road, under the penalties therein specified, in the same manner as if the said town had not been incorporated.

20. Sect IV There shall be appointed an inspector of flour at Ditto's landing, in the county of Madison, whose duty it shall be to examine and inspect all barrels of flour that may be offered by any person for inspection, and to mark upon each barrel its quality, which said inspector shall previous to his entering on the duties of his office, take an oath or affirmation faithfully and impartially to perform and execute all the duties relating to said office, for which services he shall be entitled to demand and receive from the owner or person so landing said flour, for each and every barrel so examined, inspected and branded, six and one quarter cents.

21. Sect V. This act shall commence and be in force from and after the first day of February next.

ACT of December 13, 1816. (Stat. p. 67.)

22. **Sect. I.** The county court of Adams county, or any three members thereof, in vacation, shall appoint nine inspectors for an election to be held at the court-house in the town of Washington, and at the city-hall in the city of Natchez, and at the house of David Greenleaf. at the old court-house, on Friday and Saturday, the twenty-fourth and twenty-fifth of January next, three of whom shall preside at each of the places aforesaid, for the purpose of holding an election for five commissioners citizens of said county, to fix on a permanent seat of justice, at which to establish and erect the public buildings of said county, and to contract for the erection of said buildings, and for a sufficient lot of land for that purpose; which election shall open and close at the same time of the day; shall be held by the sheriff of said county or his deputies, and be conducted in like manner as is provided for the election of members to the general assembly.

Sect. II. In case the said justice shall neglect or refuse to appoint said inspectors, or any of them, or in case such inspectors, when appointed, shall neglect or refuse to act, then, and in those cases, the sheriff of Adams county or his deputy, shall on the first day of election, proceed to make such appointment or fill such vacancies of inspectors as may exist, in the same manner as is provided by law in case of inspectors of the election for representatives.

Sect. III. The said inspectors shall appoint two clerks at each place for said election; and the said inspectors and clerks shall take an oath similar to that prescribed in the case of elections of members of the assembly, and shall in all respects perform their duties accordingly.

Sect. IV. Every white free male person, being a citizen of the county of Adams, who shall have arrived at the age of twenty-one years, and resided in the said county twelve months previous to the said election, shall be admitted to vote thereat, and none other.

Sect. V. The sheriff of said county shall make known in the newspapers published in the city of Natchez, three weeks in succession next preceding said election, when and where, and for what purpose the same is to be held. And when the polls shall be closed at said election, and the votes counted as prescribed by the general election law, it shall be the duty of said sheriff to declare by proclamation in said newspapers immediately after said election, the persons who shall be elected thereat, and also give notice in writing to such persons of their election.

Sect. VI. Where any doubt shall exist as to the qualification of any person offering to vote under this act, the inspectors of said election shall examine the person so offering to vote, or any other person on oath, to be administered by them, as to his qualification; which oath or oaths said inspectors are hereby authorised to administer.

SECT. VII. In case of the death, removal from the county, or refusal to act of any of said commissioners, a majority of them shall have power to appoint a person or persons to fill such vacancy. And the said commissioners or a majority of them, shall have power and authority to fix on and establish the permanent seat of justice of said county, to purchase a suitable lot of land therefor, and receive titles for the same, in the name of the county of Adams, and to contract for the erection of a court-house, jail, pillory and stocks on such lot, on such plan, in such manner, and of such materials as they may think most proper and most conducive to the interest of the county: *Provided*, That if said commissioners shall establish the permanent seat of justice for said county at the town of Washington, then the public buildings shall be erected on the lot of ground at present owned by said county, if said commissioners shall deem it the most eligible.

SECT. VIII. It shall be the duty of the said commissioners to have the jail erected previous to the court-house, and so soon as either or each of these buildings is erected the same shall be made known by said commissioners, by public notice published in some newspaper in said city; and from thenceforth such building or buildings shall be used as the court-house or jail, as the case may be, of said county, instead of those now used at the town of Washington.

23. SECT. IX. For the purpose of defraying the expense of erecting said buildings, it shall be the duty of the county court of said county to levy and have collected, by the tax collector of said county, the sum of twelve thousand dollars, one half thereof in the year eighteen hundred and seventeen, and the other half in the year eighteen hundred and eighteen, on the same persons and property, and at the same time as the territorial tax; and it shall be the duty of the said collector to pay over to the said commissioners on or before the first day of October, in each of said years, the said sum by him to be collected; and the said commissioners shall have the same mode of proceeding and recovery against said collector, as is by law given to the auditor of public accounts for the territorial tax; and the said collector shall receive the same compensation therefor as for the collection of other taxes; and if any surplus over said sum of twelve thousand dollars shall remain in the hands of said collector, he shall pay the same into the county treasury of said county for county purposes.

COUNTY SURVEYORS.

Fees of county surveyors . 1
Repealing clause . . 2

ACT of December 12, 1816. (Stat. p. 65.)

1. Sect. I. The following compensation shall be allowed, demanded and taken by county surveyors, and no more, for services rendered by virture of their offices, viz :

For each day's attendance in making any survey,	$ 5 00
For every single plat, and calculating contents, with certificate of survey annexed, ...	$ 2 00
For every adjoining plat with notes of reference . .	50
For every additional copy of a plat, with certificate of survey and notes of reference, where there are not more than three plats contained in said copy, ...	$ 1 00
For every additional plat in said survey, ...	25
For surveying a town lot, ...	$ 2 00
For each adjoining lot	$ 1 00

2. Sect. II. The third section of the act to which this is an amendment, be, and the same is hereby repealed.

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COURTS.

Sheriffs and constables to take forthcoming bonds . . 1
—— proceedings thereon . . ib.
Montgomery county, courts when holden 2
Monroe county, courts to continue to exercise jurisdiction, and sheriffs to serve process . . 3
Supreme court, temporary place for holding 4
Appropriation therefor . ib.
In cases of appeal, &c. from justices, and judgment vs. defendant below—judgment also vs. security 5
Writs of error to issue by clerks of courts below . . . 6
To take bond, send up transcript, &c. and issue citations . ib.
In supreme court, causes how docketed 7
Judgments to be certified to clerk of court below—who shall issue execution and send up cost . 7
Writ of error, filed and security given, to be supercedeas . ib.
Executors, administrators & guardians, how compellable to settle their accounts . . . 8
Injunctions not granted until errors released, damages on dissolution 9
Madison county, intermediate courts when holden . . 10
Limitation of certain real actions 11
—— In case of open accounts 12
—— Proviso for infants, &c. . 13
—— Actions barred not revived 14
In certain real actions, improvements to be paid for . 15
—— Damages in case of ouster, &c. 16

*ACT of December 23, 1812. (Stat. p. 58.)

1. **Sect. IV.** It shall be the duty of every officer serving an execution on goods and chattels, if the person whose property is levied on, or who may have delivered up property in discharge of his body, will give bond to the creditor or creditors, with good and sufficient security in the penalty of double the amount due by such execution, including all costs, conditioned for the forthcoming and delivery of the same property to the proper officer on the day and at the place appointed for the sale of the same, by twelve o'clock, (noon) to suffer the property to remain in the possession of, and at the risque of the debtor or debtors; and if the condition of any such bond shall not be complied with, the proper officer shall return such bond, together with the execution, to the clerk's office or justice of the peace, as the case may be, and that the bond was forfeited; and every forthcoming bond which shall be forfeited, shall have the force and effect of a judgment, and the clerk of the court or justice of the peace, as the case may be, shall immediately upon the return of every such bond, "forfeited," issue execution thereon against all the obligors therein; and on any such execution no security of any kind shall be taken, and the clerk or justice of the peace, as the case may be, issuing the same, shall endorse thereon the same, and the officer to whom the same may be directed, shall act accordingly.

ACT of December 6, 1816. (Stat. p. 25.)

2. **Sect. III.** There shall be holden in and for the said county of Montgomery, twice in every year, a superior court of law and equity, on the third Mondays in June and December; a county court on the third Mondays in March and September; and an intermediate court for county purposes, on the third Mondays in June and December.

3. **Sect. IV.** All the courts heretofore established in and for the county of Monroe, shall continue to have and exercise jurisdiction; and the sheriff of said county to have and exercise the power of executing all process heretofore issued in any judicial proceedings already commenced, and then cognizable therein, although the same may have originated, or the defendant may reside in the part at present forming the county of Montgomery.

ACT of December 10, 1816. (Stat. p. 36.)

4. **Sect. I.** The ensuing session of the supreme court of errors and appeals, shall be held st such house in the town of Washington, as shall by the sheriff of Adams county be provided for that purpose; and it shall be the duty of the officers of said court, and all others concerned, to give their attendance accordingly.

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* This section was omitted in the Digest.

SECT. II. The sum of thirty dollars be, and the same is hereby appropriated to carry this act into effect; to be paid on the auditor's warrant to the sheriff of said county, out of any money in the territorial treasury, not otherwise appropriated.

ACT of December 12, 1816. (Stat. p. 57.)

5. SECT. 4. Whenever any judgment rendered by any justice shall be removed into any superior court by appeal, certiorari or otherwise, and the judgment of the justice be affirmed, judgment shall be entered against the security as well as the principal, and execution may issue against both, or either of them.

ACT of December 12, 1816. (Stat. p. 57.)

6. SECT. I. When either plaintiff or defendant, in any matter or cause determined in any of the superior courts of this territory, shall wish to have the judgment rendered in said courts examined in the supreme court of errors and appeals of this territory, and shall in person, or by his attorney, apply to the clerk of the court in which the judgment shall have been rendered, it shall be the duty of the clerk of the siad court to issue a writ of error, returnable to the first day of the next term of the said supreme court; and also to issue a citation, which shall be served upon the opposite party or his attorney, by the proper officer of the court, at least fifteen days previously to the commencement of the next term of the supreme court; which citation shall be returned to the office of said clerk, whenever served, whether in vacation or term time, and shall be sealed up with the copy of the record in the cause and the assignment of errors, and be delivered to the party applying for the writ of error, or his attorney, to be by him or them returned to the first day of the next term of the said supreme court; and in case the copy of the record in the cause below should not be delivered to the clerk of the said supreme court on or before the third day of the term of the said supreme court to which the writ of error shall be returnable, it shall be lawful for the said supreme court, on motion of the defendant in error or his attorney, on producing a copy of the citation served upon the defendant, to dismiss the cause at the costs of the plaintiff in error; but the cause may be reinstated on the docket at any time during the term upon the writ shall be made returnable, upon shewing sufficient cause to the said supreme court.

7. SECT. II. It shall be the duty of the clerk of the said supreme court to enter on a docket to be kept for that purpose, a list of all causes brought by writ of error into the said court according to priority; and the errors assigned shall be tried by the said supreme court at the return term, unless for sufficient reason the cause should be continued. Whenever a final judgment shall be rendered by the said supreme court in any cause, it shall be the duty of the clerk of the said

supreme court to certify the judgment of the said court, to the clerk of the court from which the cause came, together with a bill of the costs accruing in the said supreme court; and it shall be the duty of the clerk below, immediately upon the receipt of the said certificate, to issue execution if judgment be rendered for the plaintiff in the original cause, for all the money together with all the costs of the suit in the court below, and supreme court, which by the judgment of the said supreme court may be due from the said defendant to the said plaintiff; but if judgment be rendered for the defendant in the original cause, then against the plaintiff in the original cause, for all the said costs of suit, returnable to the first day of the next term of the said court below. And it shall be the duty of the clerk below to transmit to the clerk of the said supreme court upon the return of the said execution satisfied, all costs which may have accrued in the same cause in the said supreme court. Whenever a writ of error shall be filed in the clerk's office of any of the superior courts of this territory, in any cause or matter finally determined in the said courts, and bond and security be given according to law, it shall operate as a supercedeas.

ACT of December 12, 1816. (Stat. p. 61.)

8. Sect I. Hereafter no injunction shall be granted to stay an execution of a judgment at law, unless the party applying for such injunction, or to be benefitted thereby, shall first sign and seal a release of errors in such judgment at law, and file the same in the office of the clerk of the court in which such judgment shall have been obtained; and whenever an injunction shall be dissolved, damages after the rate of six *per centum* shall be added to the amount of the judgment: *Provided*, the court be of opinion that the injunction was obtained for delay.

ACT of December 12, 1816. (Stat. p. 62.)

9 Sect. I. Hereafter the intermediate county courts of Madison county shall be holden on the first Mondays in April and October, in each and every year, which may continue six judicial days and no longer.

ACT of December 13, 1816. (Stat. p. 78.)

10 Sect. I. No person or persons, body politic or corporate, who now have, or shall or may hereafter have any estate, right, title, claim or demand, by virtue of any title which has not been confirmed by either of the boards of commissioners of the United States, appointed for settling and adjusting land claims in the Mississippi territory, and not recognized or confirmed by any act of congress, in or to any lands, tenements or hereditaments in this territory, shall after the expiration of three years from and after the passing of this act, have, prosecute or maintain any action or suit at law, for the recovery thereof, in any

court in this territory: *Provided*, That this act shall not extend to claims in that part of this territory formerly a part of West Florida which have been registered and not acted on by congress: *Provided also*, That if any person or persons who is, are, or shall be entitled to sue or prosecute such suit or action, or who hath, have or shall have such right or title, shall be within the age of twenty-one years, feme covert, or insane within the time limitted by this act, then such person or persons, his, her or their heirs or assigns, shall and may, at any time within three years next after his, her or their coming to full age, of sound mind or *discovert*, bring, sue and prosecute such suit or action, and at no time thereafter.

11 Sect. II. No action shall hereafter be brought to recover any money due by open account, in cases hereafter contracted, after the expiration of three years from the accruing of the cause of action, or after the passage of this act, in cases heretofore contracted: *Provided*, that nothing in this act shall apply to the trade of merchandize between merchant and merchant, their factors or agents.

12. Sect. III. Any person or persons that is or shall be entitled to any of the personal actions enumerated and mentioned in this act, and in the act for the limitation of actions, and for avoiding vexatious law suits, be, or shall be, at the time of any such cause of action given or accrued, fallen or come, within the age of twenty-one years, *feme covert*, non composmentis, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are before limited, after their coming to or being of full age, *discovert*, or of sane memory, as other persons having no such impediment should have done

13. Sect. IV. Nothing in this act shall operate so as to revive any claim on demand, already barred by the provisions of any law or statute of limitation of this territory; and when any such claim or demand so barred, is or shall be sued for, a plea or pleas to that effect shall be sustained in the same manner as if this act had not passed.

ACT of December 13, 1816. (Stat. p. 96)

14. Sect. I. In all actions, real or possessory, hereafter brought or prosecuted in any court in this territory, for any lands, tenements or hereditaments, against any person or persons, body politic or corporate, deriving title to such lands, tenements or hereditaments, by, from or under the United States, or by, from or under any Spanish grant, or order of survey recognized or confirmed by the United States' board of commissioners east or west of Pearl river, the person or persons prosecuting any such action against any person or persons, body politic or corporate, claiming and deriving title under the United States, or by, from or under any Spanish grant, or order of survey recognized and confirmed by either of the said boards of com-

missioners, and recovering judgment for any lands, tenements and hereditaments, from any person or persons, body politic or corporate, having derived title by, from, under or through the United States, or any Spanish grant, or order of survey recognized and confirmed as aforesaid, the person or persons so having obtained judgment, shall not have any writ of possession or seizen, nor obtain possession or seizen of such lands, tenements or hereditaments until he, she or they shall have first paid to the person or persons, body politic or corporate, possessing the title thereto, derived from or under the United States, or by, from or under any Spanish grant, or order of survey recognized and confirmed as aforesaid, the full value of all improvements made thereon, as the same shall be estimated, valued and ascertained, on oath, by five appraisers, which appraisers shall be, by rule for that purpose, appointed by the court in which such judgment shall have been obtained, unless the parties shall agree on the value of such improvements, or agree on and submit to appraisers to value the same: *Provided always*, That this act shall not extend and be so construed as to compel any plaintiff or plaintiffs in any of the said actions to pay for any improvement or improvements not needful and necessary, which may be made on the premises, after the service of the writ or declaration in ejectment.

15, Sect. II. If any person or persons, body politic or corporate, deriving title to any lands, tenements or hereditaments, by, from, or under the United States, or under any Spanish grant, or order of survey recognized and confirmed as aforesaid, be disseized, ousted or turned out of possession of said lands, tenements or hereditaments, by any person or persons claiming or pretending to claim title to such lands, tenements or hereditaments, and on a trial in due course of law, a judgment should be rendered in favor of the title of said person or persons, ousting, dispossessing or disseizing the person or persons, body politic or corporate, deriving title by or under the United States, or by or under any Spanish grant, or order of survey recognized and confirmed as aforesaid, it shall and may be lawful for the person or persons, body politic or corporate, so disseized, ousted, or turned out of possession, to recover from the person or persons so ousting, dispossessing or disseizing, the full value of all improvements made on said lands, tenements or hereditaments, together with double damages and costs, in any court having jurisdiction of the same.

CRIMES.

Grand Juries to present persons who sell spirits to Indians . 1
Licensed retailers of spirits to take oath not to sell to Indians . 3

ACT of December 6, 1816. (Stat. p. 26.)

1. **Sect. I.** It shall be the duty of the several grand juries in the several counties in this territory, to present any person or persons who shall retail or sell spirituous liquors to an Indian or Indians, in violation of an act of the assembly heretofore passed on that subject, and the penalty or penalties prescribed by the said act may be recovered upon presentment, and shall go to the use of the county in which the offence shall have been committed.

2. **Sect. II.** Each and every person who may hereafter apply for a permit or license to retail spirituous liquors, shall, before the same is granted, subscribe and swear to the following oath: "I do swear that I will not sell any spirits to any Indian or Indians, or knowingly permit it to be done on my premises, at any time during the continuance of my permit, (or license, as the case may be;") which oath the clerk of the county court is hereby authorised to administer; and any person who shall violate said oath is hereby declared to be guilty of wilful or corrupt perjury.

DIGEST.

Distribution thereof . .	1
No one to have more than one copy	ib.
Copies to go to successors .	2
Penalty for neglect or refusal .	ib.
Secretary to distribute it at public expense	3
E. Turner, Esq. to digest acts of session of 1816	4
To be printed as an appendix to the digest	ib.
Compensation to public printer .	5
Appropriation for him . .	6

ACT of November 13, 1816. (Stat. p. 94.)

1. **Sect. I.** The digest of the statutes of the Mississippi territory, made and printed under the direction of an act passed at the last session of the general assembly, shall be distributed as follows, viz: One copy to each member of said assembly, one to the governor, one to the secretary, one to each of the judges, one to the territorial treasurer, one to the auditor of public accounts, one to the brigadier general of the territory, one to each justice of the peace and of the quorum, one to each attorney general, one to each sheriff, one to the clerk of each court, one to each county treasurer, and one to each coroner: *Provided*, That no one person shall receive more than one copy.

2. **Sect. II.** When any justice, treasurer, auditor, clerk, sheriff or coroner, shall go out of office by death, resignation, removal or otherwise, the copy of said digest, which such officer may have had, shall be by such person, or his legal representative, immediately deposited

with the register of the orphans' court of his county, for the use of his successor in office, under the penalty of ten dollars, to be recovered before any justice of the peace, or of the quorum, by any person suing for the same for the use of the county in which such officer held and exercised his said office.

3. Sect. III. It shall be the duty of the secretary of this territory to make distribution of said digest as above directed by such mode of conveyance and such routs as he may deem most proper, having due regard to safety, expedition and economy; and the secretary shall have power and authority to draw from the territorial treasury, by the auditor's warrant, such sum of money, as he may find necessary in making said distribution, out of any money in the treasury not otherwise appropriated.

4. Sect. IV. The acts of a public nature, passed at the present session of the general assembly, shall be digested by Edward Turner, Esquire, who prepared the said digest under the act of last session, and be published by the public printer, as an appendix to the said digest, in the same manner and form as the body of said work, on or before the first day of February next, and the said printer shall receive therefor the compensation hereinafter provided.

5. Sect. V. And whereas it has been made to appear to the satisfaction of the general assembly, that the compensation heretofore provided for the printing of said digest, is manifestly insufficient; therefore—*Be it further enacted*, That instead of the compensation heretofore provided, Peter Isler be, and he is hereby allowed the sum of two dollars per volume, in full compensation for printing said digest, with the appendix required by this act.

6. Sect. VI. The auditor of public accounts be, and he is hereby authorised and required to issue his warrant on the territorial treasurer, in favor of said Peter Isler, for the sum of two thousand dollars on account of the said work; and the residue of his compensation therefor, provided for by this act, shall be paid in manner heretofore provided, on said work being completed.

* * *

DOWER.

In land, held by incomplete title, . . . 1

ACT of December 12, 1816. (Stat. p. 55.)

1. Sect III Whenever any person shall die, leaving a widow not satisfactorily provided for, according to the act of the general assembly,

passed on the 22d day of December, 1812, any land title to which shall be secured in conformity to the provisions of this act, shall be subject to the dower of the said widow, in the same manner as if the title had been complete at the time of the death of her husband.

* * *

ELECTIONS.

Monroe and Montgomery counties entitled each to one member . 1
Sheriffs made returning officers in Lawrence, Pike, &c. . . 2
Additional place of holding elections in Jackson county . . 3
Votes to be returned to sheriff, who shall be returning officer . ib.
Sheriff or deputy, or coroner, to attend elections, &c. . . ib.

ACT of December 6, 1816. (Stat. p. 26.)

1. Sect. V. The said counties of Monroe and Montgomery shall be, each of them, entitled to one member in the territorial legislature, and no more, any law to the contrary notwithstanding.

ACT of December 12, 1816. (Stat. p. 69.)

2. Sect. V. The several sheriffs for the counties of Lawrence, Pike, Marion and Hancock, are hereby made the returning officers of their respective counties, under the law regulating elections for members in the territorial legislature, and representative in congress.

ACT of December 12, 1816. (Stat. p. 74.)

3. Sect. I. An additional place of holding elections in Jackson county be, and the same is hereby established at the dwelling house of James Ware, and that the separate election hereby authorised shall be holden at the same time and under the superintendence of inspectors appointed in the same manner as is prescribed by the act entitled "an act to amend and reduce into one the several acts regulating elections."

Sect. II. It shall be the duty of the said inspectors to make out a fair statement of the votes given at the said election, and the number of votes for each candidate, and deliver the same within three days after the close of said election, to the sheriff of said county, who shall be the returning officer for the whole of said county.

Sect. III. It shall be the duty of the said sheriff of Jackson county to attend the said election, by himself or his deputies, and perform all the duties required of him by the before recited act; and in case the said sheriff should not so attend, the coroner or a justice of the peace is authorised to perform the duties required of the said sheriff, according to the provisions of the aforesaid act.

ESCHEATS.

What estates shall escheat to the territory, and when, . 1
Jefferson College to have escheated property as heretofore ib.
Repealing clause . . . . . . ib.

ACT of December 10, 1816. (Stat. p. 35.)

1. Sect. I. The estate both real and personal within this territory of persons who have died intestate, or who may hereafter die intestate, leaving no lawful heir or heirs, shall be considered as escheated to the Mississippi territory: *Provided*, That nothing in this act contained shall be so construed as to impair the right of Jefferson College to such property as may escheat to that institution by virtue of the act heretofore passed on that subject, during the term of years mentioned in said act.

Sect. II. All acts and parts of acts coming within the purview and meaning of this act, be, and the same are hereby repealed.

FEES.

Of Constables 1
Of county surveyors . . . 2
Of clerk and supreme court . 3

ACT of December 12, 1816. (Stat. p. 56.)

1. Sect. II. The officers hereinafter named, shall be entitled to demand and receive for the services mentioned the fees hereto respectively annexed, viz.

CONSTABLES,

For serving each warrant in civil cases	$0 75
For levying execution and making the money thereon, when the sum is less than twenty dollars	75
And four per cent. commission on the amount of twenty dollars and upwards	
For serving subpœna and notice on each witness	50
For each bond required by law to be taken	75
For levying attachment	$1 00
For executing mittimus	$1 00

For summoning a coroner's inquest, to be paid by the county	$2 00
For each day's attendance on the superior court, when summoned by the sheriff, to be paid out of the territorial treasury	$1 50
For whipping a slave, by order of a justice of the peace, to be paid by the owner	$1 00
For executing each criminal, search, or *quitam* warrant .	$1 00

ACT of December 12, 1816. (Stat. p. 65.)

2. Sect. I. The following compensation shall be allowed, demanded and taken by county surveyors, and no more, for services rendered by virtue of their offices, viz:

For each days attendance in making any survey . .	$3 00
For every single plat, and calculating contents, with certificate of survey annexed	2 00
For every adjoining plat with notes of reference . .	50
For every additional copy of a plat, with certificates of survey and notes of reference, where there are not more than three plats contained in said copy	1 00
For every additional plat in said survey	25
For surveying a town lot	2 00
For each adjoining lot	1 00

ACT of December 12, 1816. (Stat. p. 66.)

3. Sect. I. The clerk of the supreme court of errors and appeals shall be entitled to receive double the fees allowed by law to the clerks of the superior courts for like services.

* * *

GENERAL ASSEMBLY.

Apportionment of Representatives 1
Repealing clause . . . . ib.
Secretary requested to keep public library . . . 2
— to cause to be bound Postlethwait's Dictionary of trade, &c. ib.

ACT of November 27, 1816. (Stat. p. 13.)

1. Sect. I. The following shall be the apportionment of representatives in the general assembly of this territory, viz: The county of Adams shall send four representatives, the county of Madison four, the county of Monroe two, the county of Claiborne two, the county of Jefferson two, the county of Wilkinson three, the county of Amite three, the county of Clarke two, the county of Warren one, the county of Franklin one, the county of Lawrence one, the county of Pike one, the

county of Marion one, the county of Hancock one, the county of Jackson one, the county of Mobile one, the county of Baldwin one, the county of Washington two, the county of Wayne two, and the county of Greene one.

Sect. II. All acts and parts of acts coming within the purview and meaning of this act, be, and they are hereby repealed.

RESOLUTIONS of December 13, 1816. (Stat. p. 99.)

2. *Resolved*, That the secretary of the territory be, and he is hereby requested to take charge of the library belonging to the legislature, and keep the same in his office at the seat of government, during the recess of the general assembly, subject to the use of the members as heretofore provided, and also to the use of the said secretary, and the governor of the territory—and in case the secretary will agree to take charge of said library, it shall be the duty of the clerk of the house of representatives to deliver the same to him.

Resolved, That the secretary of the territory be, and he is hereby requested to cause to be well bound, the two vols. of Postlethwait's Universal Dictionary of Trade and Commerce, &c. which was presented to the legislature on yesterday, by Dr. John Shaw, and that payment therefor be made in manner provided for the payment of the binding of the digest of the statutes.

HIGHWAYS, FERRIES AND BRIDGES.

Stage road from Natchez to the Louisiana line . . 1
Commissioners therefor—course and width of road . . . ib.
What hands to labor thereon . ib.
Commissioners may compound for labor . . . ib.
— to assess damages to individuals ib.
Hands, how far to go from home 2
Commissioners may receive donations 3
Vacancies, how filled, of comm'rs. 4
Commissioners appointed to improve navigation of Leaf and Chickasawhay rivers . . . 5
To appoint overseers . . ib.
To appoint times for working thereon . . . . ib.
What hands liable to work thereon 6
Fines for failure . . ib.
How appropriated . . . b.
Vacancies, how filled among commissioners 7
Commissioners appointed for Pascagola river 8
Roads to be measured and distances marked 9
Posts and index hands where roads intersect, fines, &c. . . ib.

ACT of November 25, 1816. (Stat. p. 3.)

1. Sect. I. Micajah Davis, Daniel M'Gahay, Daniel Williams, jun. Nathan Swazey, and Jonathan Thompson, be, and they are hereby appointed commissioners to lay out, open and keep in repair, until

the first day of October, one thousand eight hundred and twenty, a road thirty feet wide, from the city of Natchez to the Louisiana line, in a direction to the river Amite, near below the mouth of Beaver creek, which general course from Natchez is south thirty-four degrees, forty-five minutes east, by which they will be governed as far as circumstances will admit; and for the above purpose they shall have authority to call upon all the hands, liable by law, to work on public roads, residing not more than five miles from said road, to work five days thereon in each year, in opening and keeping the same in repair; also, to appoint such agents and overseers, as they may think necessary for carrying this act into effect; all of whom shall be subject to the same rules, regulations and penalties, as are prescribed by law for delinquencies in like cases. And the said commissioners are further authorised to compound with any of the hands for services necessary to be had in lieu of labor to be done on said road. And the said commissioners shall have power, and it shall be their duty to assess such damages as individuals shall in their judgment sustain by the laying out said road, and to report such assessment to the county courts respectively in which such lands shall be, and the said county courts respectively shall provide for and order the payment of such sums as heretofore provided in other cases.

2. Sect. II. None of the hands alloted to work on said roads shall be taken more than ten miles from their respective homes, except to work on that part of the road between the Homochitto and Buller's springs, in which case they may be taken fifteen miles; and for as many days as the said hands shall work on the said road, they shall be excused from working the like number of days on any other road.

3. Sect. III. The said commissioners shall be, and they are hereby authorised to receive donations for the benefit of said road, and to apply the same as in their judgment they may deem most advantageous.

4. Sect. IV. In case of the death, removal, or other disability to act, of either of the commissioners mentioned in the first section of this act, a majority of the whole number may immediately supply such vacancy, and report the same to the next general assembly, together with their other proceedings.

ACT of November 25, 1816. (Stat. p. 8.)

5. Sect. I. Josiah Skinner, John M'Ray, Alexander M'Intosh, Thomas Evans and Edward Davis, be, and they are hereby appointed commissioners on Chickasawha river, in Greene county, and that John Hurger, Jacob I. H. Morris, William Burd, Jesse Thompson and Eli Moffitt, be, and they are hereby appointed commissioners in said county, on Leaf river, and that John M'Ray, James Patton, Clinch Gray, William Pawe and William Patton be, and they are hereby appointed commissioners for the said Chickasawha river, in Wayne county, whose

duty it shall be to meet at some convenient time and place, in each of their respective counties, and on the aforesaid rivers, as they or a majority of them may think proper, within one year after the passage of this law, and there proceed to lay out the said rivers into districts, in such way as they, or a majority of them, may think most proper and convenient, and to appoint one fit and proper person as overseer for each, and to apportion the hands liable to work in each of the aforesaid districts.

SECT. II. It shall be the duty of the said commissioners in each county, and on each river as aforesaid, to appoint the most convenient and proper time for the working on said rivers, and notify the different overseers of the same; and it shall be the duty of the said overseers, so appointed, to cause all persons assigned to them to work in each of their respective districts by said commissioners, to be notified to appear at such time and place, and with such tools as such commissioners shall direct, and there work, not exceeding six days at any one time, nor more than twelve days in any one year.

6. SECT. III. All persons liable to work on roads in said territory, and living within eight miles of said rivers, shall be considered liable to work on the same, and all land holders living within the distance aforesaid from said rivers, who are by law exempt from working on roads, shall work or substitute a person to work in their place on said rivers.

SECT. IV. Each person liable to work or furnish a substitute as aforesaid, failing to appear and bring the tools required, or work as aforesaid, who having received three days' notice thereof, shall for each day they may fail, and persons holding slaves, for each hand failing to work as aforesaid, shall forfeit and pay one dollar and fifty cents, to be recovered in the same way that fines are recoverable for failing to work on roads; and any overseer appointed as aforesaid, failing to perform any part of his duty, shall forfeit and pay ten dollars, to be recovered in the same manner as fines are recoverable from overseers of roads.

SECT. V. All fines incurred by this act shall be paid into the hands of the said commissioners, to be by them appropriated to the use of hiring hands, purchasing tools suitable for working on said rivers, or such other purposes as they may think proper; and it shall also be the duty of the said commissioners to superintend the said work, and see that it is properly done, agreeably to the instructions given the overseers.

7. SECT VI If any of the aforesaid commissioners should die, remove, or refuse to act, then, and in that case, it shall be the duty of the remaining commissioners to appoint some other fit and proper person to fill the vacancy occasioned by such death, removal, or refusal to serve.

8. SECT. VII. The county court of Jackson county be, and they are hereby authorised and required to appoint five fit and proper persons as commissioners in said county, on Pascagola river; and it shall be the duty of the commissioners so appointed, to exercise all the powers, and perform all the duties on that part of said Pascagola river which lies within the limits of their county, as by this act is required of the commissioners herein mentioned in the counties of Greene and Wayne, aforesaid, relative to Chickasaw ·ay and Leaf rivers.

ACT of December 12. 1816. (Stat p 63)

9. SECT. I. It shall be the duty of the several overseers of roads in this territory, within six months after the passage of this act, to cause to be measured the roads of which they have the superintendence, and to erect a post of durable material at the termination of each mile, marking thereon in large Roman characters, the number of miles from the court-houses or principal towns of their respective counties; and every overseer of a road failing therein, shall forfeit and pay the sum of five dollars, recoverable before any justice of peace or of the quorum of the proper county, and applied to the use of the same; and every overseer of a road who shall neglect to replace such posts as shall have been destroyed by accident or natural decay, at the times appointed for working on said roads, shall forfeit and pay the sum of two dollars for each post thus neglected to be replaced, to be recovered and applied as aforesaid.

SECT. II. The overseers of roads in their respective precincts, shall within the time before mentioned, cause posts to be erected when trees are not convenient at the intersection of all public roads, with boards and index hands pointing in the direction of such roads on which shall be inscribed in legible characters the name of the town or place to which they severally lead, and the distance to the same in computed miles; and any person or persons who shall wilfully injure, deface or destroy any such posts or index boards, shall on conviction thereof, forfeit and pay the sum of ten dollars, to be recovered as aforesaid. one half thereof to be paid to the informer, and the other half to the overseer of the road, to be by him appropriated to the repair of the roads in the precinct where the injury has been sustained; and every overseer of a road who shall neglect or refuse to put up and keep in complete repair index boards as directed in this section, shall forfeit and pay five dollars, recoverable as aforesaid, to be expended in keeping in repair the highways in the precinct where the default shall have occured.

JEFFERSON COLLEGE.

Loan of money by territory . 1
—Payment thereof, how secured, &c. . . . . . . ib.
Seats of trustees may become vacant by absence 2
President thereof to make annual report to the legislature . . 3

ACT of December 13, 1816. (Stat. p. 80.)

1. Sect. I. For the purpose of aiding Jefferson college in carrying on the operations of the institution, the sum of six thousand dollars shall be, and the same is hereby loaned to said college for the term of five years, to be paid to the president of the said college in four equal annual instalments, to wit: one thousand five hundred dollars on the first day of January, 1817, 1818, 1819, and 1820, which money shall be used by the college in the employment of one or more teachers or professors for the institution; and it shall be the duty of the territorial treasurer to take from the trustees of the college, under the seal of the college used in their corporate name, bond in double the amount of each of said instalments, payable to the governor of the Mississippi territory, and his successors in office, conditioned for the payment of said instalments respectively in five years from the date of said bond, and also a mortgage to secure the payment thereof, on such real estate of the said college as the said treasurer may require; and it shall also be the duty of said treasurer to cause said bonds and mortgages to be proven and recorded in the office of the register of the orphans' court of the county of Adams, immediately after the execution of such bonds and mortgages respectively, and thereafter to keep the same among the papers of the treasury; which bonds and mortgages shall be put in suit by the said treasurer on the breach of the condition thereof, in any court of competent jurisdiction. And there is also hereby given and granted to the Greene academy, and the St. Stephen's academy, each the sum of five hundred dollars, to be paid out of the territorial treasury, on the auditor s warrant, which warrant he is hereby required to issue on the order of the president of said academies respectively.

2. Sect. II. If any trustee shall fail to attend the said board for four stated meetings in succession, it shall be deemed and considered a refusal to act as such, within the meaning of this act, and the board shall proceed to appoint a successor to such trustee: *Provided*, That the provisions of this section shall not extend to any trustee who at the time of such failure be sick and unable to attend, or temporarily absent from the territory.

3. Sect. III It shall be the duty of the president of the said board of trustees for the time being, to report annually to the general as-

sembly at the commencement of the session, the state and condition of the college, and the amount of active funds in the possession of the corporation at the time of making such report.

JUSTICES OF THE PEACE & CONSTABLES.

Stay of executions on justices judgments, what . . . 1
Constables fees 2
Justices not to annex copies of vouchers to, but to endorse cause of action on their process . . 3
In case of appeal, &c. judgment vs. principal and security . . 4
Repealing clause . . . 6

ACT of December 12, 1816. (Stat. p. 55.)

1. Sect. I. Hereafter, instead of the stay allowed on judgments obtained before justices of the peace or of the quorum, thirty days shall be given on all sums not exceeding twenty dollars, and sixty days shall be given on all sums over that amount: *Provided*, The defendant comply with the regulations of the act in that case made and provided.

2. Sect. II. The officers hereinafter named, shall be entitled to demand and receive for the services mentioned the fees hereto respectively annexed, viz.

CONSTABLES,

For serving each warrant in civil cases	$0 75
For levying execution and making the money thereon, when the sum is less than twenty dollars	75
And four per cent. commission on the amount of twenty dollars and upwards	
For serving subpœna and notice on each witness	50
For each bond required by law to be taken	75
For levying attachment	$1 00
For executing mittimus	$1 00
For summoning a coroner's inquest, to be paid by the county	$2 00
For each day's attendance on the supreme court, when summoned by the sheriff, to be paid out of the territorial treasury	$1 50
For whipping a slave, by order of a justice of the peace, to be paid by the owner	$1 00
For executing each criminal, search, or *quitam* warrant .	$1 00

3. Sect. III. Hereafter it shall not be necessary for justices of the peace, or of the quorum, to annex a copy of the note or account to any warrant, summons or capias, but to endorse thereon the cause of the action.

4 Sect. IV Whenever any judgment rendered by any justice shall be removed into any superior court by appeal, certiorari, or otherwise, and the judgment of the justice be affirmed, judgment shall be entered against the security as well as the principal, and execution may issue against both, or either of them.

5 Sect. V. All acts and parts of acts, coming within the purview and meaning of this act, be, and the same are hereby repealed.

* * *

LAWS AND JOURNALS.

Militia and patrol laws to be published in pamphlets	1	Copies to go to successors	2
Compensation therefor	ib.	Penalty for neglect	ib

ACT of December 6, 1816. (Stat. p. 28.)

1. Sect. I. It shall be the duty of the public printer, within three months after the passage of this act, to print and deliver to the secretary of the territory, six hundred copies of the militia and patrol laws now in force, on a type and page of the same size as the statutes of this territory ; and it shall be the duty of the secretary to distribute the same among the commissioned militia officers.

Sect. II. The said printer shall be allowed the same compensation per page for printing the said militia and patrol laws, as is allowed for printing the statutes

2. Sect III. It shall be the duty of the said militia officers to deliver over to their successors in office the said militia and patrol laws, under the penalty of five dollars, to be recovered before any justice of the peace of the proper county, by any person suing for the same, and be paid into the hands of the quarter master for the use of the regiment, in the same manner that other fines are applied.

MILITIA.

Rigimental field officers . . 1
Their duties . . . ib.
In cases of only one battalion to be one adjutant . . 2
Major to order battalion muster twice a year . . . ib.
One to be ordered by the general, one by the major . . . . ib.
When two adjoining counties have only one battalion, each to form one regiment, but not go out of their proper county to muster 3
Supernumerary officers, how to be disposed of . . . 4
Exempts from militia duty . . 5
Members of general court-martial to receive pay . . . 6
Books, music and colors to go to successors 7
Time of holding battalion muster 8
One regimental muster only in a year . . . . . . ib.
Company courts-martial . ib.
Cavalry officers exempt from regimental drill—colonel of cavalry may order general muster and court-martial—proviso . . 9
Repealing clause . . 10

ACT of December 6, 1816. (Stat. p. 28.)

See laws and journals—No. 1 *and* 2.

ACT of December 13, 1816. (Stat. p. 84.)

1. Sect. I. From and after the passage of this act, instead of one lieutenant colonel commandant to each regiment, and one major to each battalion of the militia of this territory, as is provided by the act to which this is an amendment; there shall be one colonel, one lieutenant colonel, and one major to each regiment consisting of two battalions; and where there shall be only one battalion, it shall be commanded by a major.

Sect. II. The duties of the colonel shall be the same, and he shall be liable to the same penalties, as those prescribed by law in relation to lieutenant colonel, and the lieutenant colonel shall have the command of the battalion in which he resides, which shall be the first battalion of the regiment; his duties shall be the same, and he shall be liable to the same penalties as those prescribed by law in relation to a major; and the duties of a major shall be the same, and he shall be liable to the same penalties as those prescribed by law in relation to a major in the act to which this is an amendment.

2. Sect. III. Where there shall be only one battalion, there shall be one adjutant appointed, and it shall be the duty of the major commanding to muster his battalion twice in each year; one of which at such time as the brigadier general may order, and the other at such time as said major may appoint, and he shall perform all the duties of a colonel, as far as they will apply to a battalion.

3. SECT. IV. Where there are two counties, neither of which is sufficiently populous to form a regiment, the governor shall have power to form a regiment by uniting the battalions of the two counties, until such time as either of them can form a regiment: *Provided*, That the said battalion shall muster separately, and not be compelled to go out of their county to attend regimental muster; but in all other respects to be subject to the same regulations as if formed by one county.

4. SECT. V. Any officer who may be dispossessed of his command by the operation of this act, shall hold his commission as a supernumerary officer, until a command of equal grade be offered him, and in case of his refusal to accept, he shall forfeit his commission.

5. SECT VI. Coroners, justices of the peace, practising physicians and keepers of the public jails, shall be exempt from ordinary militia duty, but not from draft for actual service.

6. SECT. VII. Whenever a general court-martial shall be ordered, the officers composing said court shall have and receive the sum of one dollar and fifty cents per day, for each and every day they shall sit, and the sum of one dollar and fifty cents for every twenty miles they shall travel in going to, and returning from said court, to be paid out of the territorial treasury, upon the certificate of the judge advocate, countersigned by the president.

7. SECT. VIII. In case of the resignation, or removal of any officer commanding a regiment or battalion, it shall be his duty to deliver the books, musical instruments and colors, belonging to the regiment or battalion, to the officer succeeding him in the command; and in case of his neglect or refusal, he shall be fined in a sum not exceeding one hundred dollars, at the discretion of the court-martial trying such offence.

8. SECT. IX. The time of holding the battalion musters shall be within ten days before the regimental muster. There shall be but one regimental muster in each year; and at every company muster, there shall be a company court-martial held, to try the delinquents at the preceding musters.

9. SECT. X. The officers and non-commissioned officers of the cavalry shall be exempt from regimental drill, and the colonel of the cavalry shall have power to order the different troops of cavalry in this territory to meet at such time and place as the general may appoint, once in each year, to muster, not more than two days at any one time; to order court-martials, and the fines shall be the same as for non-attendance of regimental musters: *Provided*, That no troop shall be compelled to travel more than sixty miles in going to the place of muster.

10. SECT. XI. So much of the act to which this is an amendment, and all acts and parts of acts coming within the purview and meaning of this act, be, and the same are hereby repealed.

PRESBYTERIAN CHURCH IN NATCHEZ.

Trustees may hold and maintain title to their lot 1

ACT of December 13, 1816. (Stat. p. 82.)

1. SECT. I. John Steele, John Henderson, John Bisland, Jeremiah Hunt, Charles B. Green, Joseph Forman, John Hankinson and James M'Intosh be, and they are hereby appointed trustees of the first Presbyterian church in the city of Natchez, and they and their successors, according to the rules of the said church, be, and they are hereby authorised to receive in their names, as trustees aforesaid, a deed of conveyance in fee simple, for the lot of land on which the said church is erected, and the said trustees and their successors are hereby vested with power and authority to maintain any action against any person or persons, violating the rights which the said trustees and their successors are vested with by this act, and the deed of conveyance to the said lot of land; and the contributors to the said church, shall from time to time, and at all times hereafter, have the power to elect and perpetuate the successors of the said trustees, according to the rules of the said church, in their own manner, for the purpose of securing the title to the said lot of land, and holding the same for the use of the congregation of the said first Presbyterian church in the city of Natchez, and for no other purpose whatever.

SPANISH RECORDS.

To be translated and recorded in bound books 1
Compensation therefor . . ib.
Books to be paid for by territory ib.
When completed, books to be deposited in offices of register of orphans' court in Adams and Mobile counties . . . 2
Registers to keep and give copies of records . . 3
Keeper and translator allowed mileage from Natchez to Mobile . 4

ACT of December 12, 1816. (Stat. p. 70.)

1. SECT. I. In addition to the duties already prescribed by law for the keeper and translator of the Spanish records, it shall be the duty

of that officer to make a faithful translation and record in well bound books to be by him provided for that purpose, of all the records belonging to his said office, and all the Spanish records now remaining at the town of Mobile; and the said keeper and translator shall record in separate books those records relating to trials and judgments in suits, and those relating to conveyances of real and personal estate; and it shall also be the duty of said keeper and translator to make a complete index in alphabetical order of the contents of each volume to be therein contained.

Sect. II The said keeper and translator shall be entitled to twenty-five cents for every hundred words he shall so translate and record, in full compensation thereof, to be paid on the certificate of the secretary of this territory to the auditor of public accounts, and on the auditor's warrant, out of the territorial treasury; and the said books to be procured for the purposes aforesaid, shall be paid for in like manner.

2. Sect. III. After the completion of the translations and recording aforesaid, it shall be the duty of the said keeper and translator to deposit with the register of the orphans' court of Adams county, the books of records, together with the originals of the records at present appertaining to the office of keeper and translator aforesaid; and with the register of the orphans' court of Mobile county, the books of records together with the originals of the records aforesaid, now remaining at the town of Mobile aforesaid; and immediately after the completion of said duties of said keeper and translator, his office shall be abolished.

3. Sect. IV. It shall be the duty of the said registers respectively, to receive said books and original records directed as aforesaid to be to them delivered respectively, and to keep and preserve the same in the same manner as the other records appertaining to their offices are by law directed to be kept and preserved, and also to give copies and allow inspection thereof as of other records, and to receive the same fees therefor; and copies of such records duly certified, shall be received and read in evidence in the same manner and with like effect as other certified copies of records appertaining to the said registers' offices respectively.

4. Sect. V. The said keeper and translator shall be entitled to receive three dollars for every thirty miles he shall travel in going the customary road from Natchez to Mobile, in discharge of the duties required of him by this act, to be paid out of the territorial treasury in like manner as the compensation above allowed him.

TAVERNS.

Liquors may be retailed by the quart without license . . 1
Free negroes not to be licensed to keep tavern, &c. . . 2
Penalty for selling spirits to Indians— duties of grand juries 3
Licensed retailers of spirits to take oath not to sell to Indians . 4

ACT of November 27, 1816. (Stat. p. 14)

1 Sect. I. Merchants and shop-keepers shall be, and they are hereby authorised to sell and retail liquors by the quart without a license from the county court of their county, so that the same be not drank with their consent and privity in their stores, or on the premises where they reside or have their stores; any thing in the act to which this is an amendment to the contrary notwithstanding.

2. Sect. II. Hereafter it shall not be lawful for free negroes to be licensed to keep tavern, or retail spirituous or vinous liquors; any law to the contrary notwithstanding.

ACT of December 6, 1816 (Stat. p. 26.)

3. Sect. I. It shall be the duty of the several grand juries in the several counties in this territory, to present any person or persons who shall retail or sell spirituous liquors to an Indian or Indians, in violation of an act of assembly heretofore passed on that subject; and the penalty or penalties prescribed by the said act may be recovered upon presentment, and shall go to the use of the county in which the offence shall have been committed.

4. Sect II. Each and every person who may hereafter apply for a permit or license to retail spirituous liquors, shall, before the same is granted, subscribe and swear to the following oath: "I do swear that I will not sell any spirits to any Indian or Indians, or knowingly permit it to be done on my premises, at any time during the continuance of my permit, (or license, as the case may be;") which oath the clerk of the county court is hereby authorised to administer; and any person who shall violate said oath, is hereby declared to be guilty of wilful or corrupt perjury.

TREASURY DEPARTMENT.

Taxes yet due, how to be collected in Montgomery county 1

ACT of December 6, 1816. (Stat. p. 27.)

1. SECT I When any person or persons having been legally assessed by the assessor of Monroe county, and not having paid said taxes, shall reside in the parts at present forming the county of Montgomery; in all such cases, it shall be lawful for the collector of the aforesaid county of Monroe, to send certified under his hand and seal a transcript from his tax list, to the collector of the county where such delinquent or delinquents may be, and the collector of such last mentioned county, is hereby authorised and required upon such transcript, to proceed to make the money by distress and sale, or otherwise; and immediately thereafter, to transmit the amount so made to the collector, who sent the transcript, for which services the collector making the money shall receive the compensation allowed by law for similar services.

WILLS, INTESTATES AND GUARDIANS.

Executors, &c. to complete payment for lands purchased by dec'd of the United States . 1
Court may order land not paid for, to be sold if not assets sufficient to pay therefor . . . 2
Executors, administrators & guardians, how compelled to settle their accounts . . . 3

ACT of December 12, 1816. (Stat. p. 54.)

1. SECT. I. Whenever any person shall have purchased land of the United States, and shall die before the payment therefor shall have been completed, his or her executor or administrator, executrix or administratrix, shall be, and he is hereby authorised and empowered to sell by order of the orphans' court of the proper county, any property belonging to the estate of the deceased, giving public notice of the time and place of such sale, and upon such terms as shall be prescribed by the said orphans' court, and to apply the proceeds of such sale to the payment of said land: *Provided nevertheless*, That this act shall not extend to cases where the testator or testatrix shall have made provision for the payment of such land, by his or her last will and testament.

2. SECT. II. Whenever any person shall have purchased land of

the United States, and shall die before the payment therefor shall have been completed, and the personal property of said deceased, in the opinion of the orphans' court of the proper county, shall be insufficient to pay the balance due for said land, the said orphans' court are hereby vested with power and authority to grant to the executor or administrator, executrix or administratrix of said deceased, an order to sell said land so purchased of the United States, and unpaid for, upon such terms as in the opinion of the said orphans' court will be most advantageous for said estate, and to transfer to the purchaser or purchasers the certificate for the same.

ACT of December 12, 1816. (Stat. p. 60.)

3. SECT. I. Whenever any executor or executrix, administrator or administratrix, or guardian, shall be cited by the orphans' court of any county, or the chief justice thereof, to appear and settle their accounts as executor, administrator or guardian, and shall fail to appear in obedience to the citation, the said orphans' court shall have power to issue an attachment against the person or persons so failing, in the same manner as the superior courts of this territory might or could do for disobedience to any order, judgment or decree of said courts; and the said orphans' court shall have power to summon a jury of bye standers whenever it may be necessary, in order to carry into effect the power hereby granted.

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EXTRACT FROM THE JOURNAL

Of the House of Representatives of the Mississippi Territory,

Of Friday the 15th December, 1815.—*(Page* 204 *&* 205.*)*

On motion of Mr. Wilkins,

Resolved, That the clerk of this house do inform the Legislative Council, that this house is now ready to receive the Legislative Council in the Representative chamber, for the purpose of choosing by the joint ballot of the two houses a person to Digest the Statutes of this Territory, agreeably to the joint resolution of a former day.

On motion of Mr Campbell,

Ordered, That Messrs. Saffold and Baker, be appointed tellers to manage and report said balloting on the part of this house; and that the clerk inform the Council thereof.

A message from the Council, by Mr. Hughes, their secretary:

"*Mr. Speaker*—

The Council have on their part appointed Mr. Titus, teller with the tellers appointed by the House of Representatives, to manage and report said balloting at the election for a person to Digest the Statutes of the Mississippi Territory;" and then he withdrew.

The Legislative Council, preceded by the sergeant at arms, then entered the Representative chamber, and having taken the seats assigned to them, the two houses proceeded jointly to ballot for a person to Digest the Statutes of this Territory, agreeable to the statute in such case made; and after the said balloting was finished, the tellers appointed to manage and report the issue of such election, reported to the two houses, that Mr. Edward Turner was duly elected, which was accordingly announced to the two houses.

The said election having thus been finished and announced, the Legislative Council retired from the Representative chamber.

ERRATA.

Page 46. After No 34. Insert the following: ‘ Act of March 27, 1804, Vol. VII. p. 165, Sect. 7.’

Sect. 7. The tract of country lying north of the Mississippi territory, and south of the state of Tennessee, and bounded on the east by the state of Georgia, and on the west by Louisiana, shall be, and the same is hereby annexed to, and made a part of the Mississippi territory.

Page 55. No. 17, Sect. 2, line 2d, for ‘ Malcom’ read ‘ Malone.’

56. No. 22, Sect. 3, line 4, for ‘ number’ read ‘ body.’

57. Line 8th, for ‘ 42’ read ‘ 44.’

85. No. 36, Ib. after the words ‘ town of,’ insert ‘ Twickenham.’

86 No. 63, for ‘ Mobile county,’ read ‘ Mobile country.’

90. Last line, for ‘ or’ read ‘ of.’

109. No. 71, Sect. 1, line 1st, for ‘ Joseph’ read ‘ Josiah.’

Ib. Sect. 2, line 3, after the word ‘ clerks’ insert ‘ office.’

128. After note 99, add note ‘ 99, arbitration by rule of court.’

137. No. 18, Sect. 17, *strike out the proviso.*

138. No. 19, Sect. 18, *strike out the proviso.*

143. No 36, Sect. 1, line 3, after the word ‘ whom’ insert ‘ he would sue.’

144 Line 1st, for ‘ fining’ read ‘ filing.’

Ib. Line 2, after ‘ is’ insert ‘ not.’

153. Sect. 20, line 10, after ‘ be’ add ‘ so’ before the word *construed.*

157. Sect. 9, line 3, after ‘ residing’ insert ‘ out of this territory against any person or persons residing.’

164. Sect. 15, line 1st, for ‘ like’ read other.’

Ib. Sect. 15, line 2, after ‘ other’ insert ‘ live.’

166. Sect. 23, line 34, for ‘ revision’ read ‘ reversion.’

167. Line 6, for ‘ scire’ read ‘ fieri.’

169. Sect. 28, line 3d, for ‘ dealing’ read ‘ diet.’

Ib. Sect. 29, line 4, after ‘ of’ insert ‘ otherwise.’

170. Line 2, after ‘ attachment’ read ‘ shall issue.”

221. Sect. 44—By the act of 20th December, 1815, all fines and forfeitures are to be paid into the county treasuries respectively, for county purposes.

223. Sect. 56—By the act of 20th December, 1815, all fines and forfeitures are to be paid into the county treasuries respectively, for county purposes.

Ib. Sect. 57—Mode of trial of slaves altered by subsequent acts.

239. Last line, after ‘ bank of’ insert ‘ one of.’

278. ‘ No. 5’ read ‘ No. 3.’

282. No. 17, Sect. 1, line 2, for ‘ collection’ read ‘ taxing.’

284. Line 13, after ‘ as’ insert ‘ to.’

309. Sect. 6, line 3d, instead of the words ‘ therein mentioned’ read ‘ and misdemeanors.’

314. Note 2—Of justices of peace and constables, for ‘ same fees of justices’ read ‘ some fees of justices.’

314 Note 13—For ‘ be on interest’ read ‘ bear interest.’

316. Sect. 1, line 15, for ‘ demad’ read ‘ demand.’

317. Sect. 3, line 4, after ‘ sum’ read ‘ claimed.’

ERRATA.

323. Sect. 21, line 11, for 'country' read county.'

344. No. 6, for 'seals' read 'seats.'

345. No. 6, line 12, after 'freeholders' insert 'or land holders.'

346. No. 8, line 1, for 'request' read 'inquest.'

352. No. 16, line 8, strike out from the word 'prescribe' to the end of the section

364. Sect. 6 line 12, after 'joint tenants' strike out 'or tenants.'

Ib. Sect. 7, line 1, after justices for 'of' read or.'

369. Sect. 7—So much of this section as applies to the city of Natchez is repealed—see Natchez No. 7.

371. Sect. 1—Instead of 50 cents per day, guards are allowed one dollar by act of December 23d 1815.

381. Sect. 1, line 3, after 'to' insert 'the satisfaction of.'

386. No. 17, line 3, after 'such' erase 'slave.'

391. No. 11, for 'droves' read 'slaves.'

392. Note. 2, last line, for 'second' read 'third.'

400. No. 13, line 7, after 'delivered' insert 'by the court.'

404. Sect. 6, line 2, for 'legisture' read legislature.'

407. Sect. 1. line 3, after 'of' read 'such.'

417. Line 11, after 'have' insert 'rendered contains all the property which I have.'

420. Sect. 15, line 6, for 'Pear' read 'Pearl.'

423. Sect. 24, line 14, after 'every' read 'clerk of each and every.'

430. No. 4, for 'recoverable' read revocable.'

431. No. 14, after 'legitimate' insert 'by.'

432. No. 46, for 'executions' read executors.

Ib. Sect. 1, line 1, for 'court' read 'county.'

Ib. Last line, for 'prabate' read 'probate'.

438 Sect. 28, line 3, for 'sufficient' read 'insufficient.'

442.—Strike out from the words 'credits of' in the 12th line to the word the 'deceased' in the 14th line not inclusive.

443 Sect. 40, line 6, for 'descendants' read 'decedents.'

446. Sect. 51, line 13, after 'to' insert 'be.'

450 Line 16, after 'of' insert 'the court on.'

453. No. 2, line 15, for 'treasury' read 'treasurer.'

473. Sect. 1. last line but one, for 'upon' read 'to which.'

477. Dower—at the end of the section add 'see wills, intestates and guardians, No. 1 and 2.'

487. Sect. 2, line 15, for 'supreme' read 'superior.'

List of Acts Expired or Repealed.

A law in aid of or in addition to the regulations of the governor for the permanent establishment of the militia of the Mississippi territory, passed February 28, 1799.

A law establishing courts of judicature, passed February 28, 1799.

A law establishing a court of probate, passed February 28, 1799.

A law respecting crimes and punishments, passed February 28, 1799.

A law respecting sheriffs, coroners, recorders and treasurers, passed February 28, 1799.

A law regulating marriages, passed February 28, 1799.

A law regulating taverns and retailers of liquors, and concerning Indians, passed February 28, 1799.

A law to prevent trespasses in divers cases, passed March 19, 1799.

A law for the regulation of slaves, passed March 30, 1799.

A law directing the manner in which money shall be raised and levied, to defray the charges which may arise within the several counties, passed April 3, 1799.

A law for dividing the counties into townships, and constituting constables and overseers of the poor, passed April 3, 1799.

A law establishing and regulating the fees of the several officers and persons therein named, passed April 3, 1799.

A law allowing for domestic attachments, passed April 10, 1799.

A law regulating domestic attachments, passed April 12, 1799.

A law directing the building and establishing of a court-house, goal, pillory, whipping-posts and stocks in every county, passed April 12, 1799.

A law for the well regulating of goals and prisons, passed April 12, 1799.

A law for opening and regulating highways, passed April 13, 1799.

A law regulating inclosures, passed April 15, 1799.

A law for the easy and speedy recovery of small debts, passed April 17, 1799.

A law to regulate the admission of attornies, passed May 1, 1799.

A law authorising the governor to establish public ferries, passed May 25, 1799.

A law fixing the place where the supreme courts for this territory shall be held, and the time of holding them, passed September 21, 1799.

A law to enable an obligee, or obligees to bring an action on a joint obligation against one or more of the obligors, when any of them are not residents of this territory, and also to make obligations and promissory notes assignable, likewise receipts for cotton, passed September 21, 1799.

A law directing the mode of binding apprentices, passed September 21, 1799.

A law creating the office of clerk of the legislature, passed October 3, 1799.

A law to impose a fine on persons refusing to fill the office of constable, passed October 5, 1799.

A law to provide for the inspection of cotton gins, cotton presses, and cotton intended for exportation from the Mississippi territory, passed October 15, 1799.

A law extending and defining the jail yards in this territory, passed May 27, 1800.

A law in addition to, and amendment of the law "for the permanent establishment of the militia of the Mississippi territory," passed May 27, 1800.

A law in addition to the laws for the regulation of slaves and Indians, passed May 27, 1800.

A law authorising the session of the supreme court at the county on the Tombigby, whenever it shall be established, passed May 27, 1800.

A law to alter the times of holding the supreme court in the county of Adams, and for other purposes, passed October 2, 1800

A law for the speedy trial of slaves, passed October 30, 1800.

A law to alter and amend the law respecting crimes and punishments, passed October 30, 1800.

A law to alter and amend a law heretofore passed in this territory entitled "a law fixing the place where the supreme courts for this territory shall be held, the number of sessions, and the time of holding them," and for other purposes, passed October 30, 1800.

A law to direct the mode in which monies may be drawn from the county treasuries, and for other purposes, passed October 30, 1800.

LIST OF ACTS EXPIRED OR REPEALED.

An act against usury, passed December 4, 1801,

An act authorising the marking a way for a public road from the boundary line to the Grindstone Ford on the Bayou Pierre, passed December 23, 1801.

An act to provide for the more convenient organization of the courts of this territory, passed January 26, 1802.

An act for establishing and organizing a militia in this territory, passed January 27, 1802.

An act ascertaining the number of attornies general to be appointed in the Mississippi territory, for fixing their salaries and directing their duty in office, passed January 27, 1802.

An act for giving equity jurisdiction to the superior courts, passed January 30, 1802.

An act to empower the county courts of the several counties to order the laying out public roads, and establish and settle ferries and to appoint where bridges shall be built, passed January 30, 1802.

An act appointing the time when, the places where, and the manner of electing members of the house of representatives, passed February 2, 1802

An act appointing the place where the next and future sessions of the general assembly shall be held, passed May 10, 1802.

An act prescribing the number of jurors to be furnished from the different counties to the superior courts, passed May 10, 1802.

An act more effectually to secure the rights and interests of the citizens of this territory, passed May 10, 1802.

An act to enable the county courts to assess county taxes, and directing the manner of paying money out of the county treasury, passed May 13, 1802.

An act to repeal part of an act entitled " an act to provide for the more convenient organization of the courts of this territory, passed May 13, 1802.

An act concerning jails and prisoners, passed May 13, 1802.

An act to provide for the more speedy promulgation of the laws passed by the general assembly, passed May 13, 1802.

An act to suspend part of an act to divide Jefferson county, passed May 10, 1802.

An act for allowing the additional sum of seven hundred and fifty dollars for completing the court-house, jail, &c. in Jefferson county, passed May 10, 1802.

An act for the distribution of the estates of persons who die not leaving property sufficient to pay all their just debts, passed January 27, 1803.

An act concerning Indians, passed February 10, 1803.

An act to restrain taverns, and regulate tippling houses, passed March 4, 1803.

An act creating the offices and defining the duties of territorial and county treasurer, passed March 4, 1803.

An act to erect the town of Natchez into a city, and to incorporate the same, passed March 10, 1803.

An act to amend an act entitled " an act for establishing and organizing a militia law in this territory," passed March 10, 1803.

An act additional to an act entitled, " an act ascertaining the number of attornies general to be appointed in the Mississippi territory for fixing their salaries, and directing their duty in office, and for other purposes, passed March 10, 1803.

An act to continue in force the act entitled " an act for altering the times of holding certain courts therein mentioned," passed March 12, 1803.

An act to alter and appoint the time of the next meeting of the general assembly of this territory, and for other purposes, passed March 12, 1803.

An act appointing and authorising commissioners to report to the general assembly upon the most advantageous and convenient position for a permanent seat of justice for the county of Adams, passed March 12, 1803.

An act to establish a permanent site of justice for the district and county of Adams, passed November 19, 1803.

LIST OF ACTS EXPIRED OR REPEALED.

An act establishing the fees of the chief justice and register of the several orphans' court in this territory, passed November 18, 1803.

An act for the relief of debtors, by making composition with their creditors, in case two thirds in number and value do agree, passed November 18, 1803.

An act empowering the board of trustees of Jefferson college to elect new trustees, passed November 18, 1803.

An act to amend and reduce into one, the several acts ascertaining the number of attornies general to be appointed in the Mississippi territory, for affixing their salaries and directing their duties in office, and for other purposes, passed November 19, 1803.

An act making further and more effectual provision for establishing and organizing the militia of this territory, passed November 19, 1803.

An act supplementary to an act entitled "an act to provide for the more convenient organization of the courts of this territory," passed November 19, 1803.

An act concerning Indians, passed January 27, 1805.

An act supplemental to an act entitled "an act to establish a permanent site of justice for the district and county of Adams, passed February 1, 1805.

An act providing for the erection of a gaol in Jefferson county, in Greenville, passed February 21, 1805.

An act concerning executions in the county and district of Washington, passed March 1, 1805.

An act establishing certain courts therein named, and regulating judicial proceedings in this territory, passed March 2, 1805.

An act additional to a bill entitled "an act establishing certain courts therein named, and regulating judical proceedings in this territory," passed March 2, 1805.

An act establishing the fees of the several officers therein named, passed March 6, 1805.

An act providing for the public printing necessary to be done in this territory, passed March 8, 1805.

An act to empower the justices of the county court of Jefferson county to hold a special court, passed March 8, 1805.

An act supplemental to the act entitled "an act to erect the town of Natchez into a city, and to incorporate the same," passed March 8, 1805.

An act explanatory of "an act" passed the 18th day of November, 1803, supplementary to the acts of the late general assembly, providing for the raising of a revenue, passed January 30, 1802, and March 12, 1803—passed March 8, 1805.

An act concerning executions, passed July 16, 1805

An act supplemental to an act entitled "an act providing for the erection of a jail in Jefferson county, at Greenville, passed July 16, 1805.

An act authorising the sheriff of Adams county to remove the prisoners in his custody to the county jail, passed July 16, 1805.

An act authorising the justices of the county courts of Claiborne and Jefferson counties to levy a special tax, passed July 20, 1805.

An act prescribing the duties of the territorial treasury, passed July 20, 1805.

An act concerning the county court of Wilkinson county, passed July 20, 1805.

An act to amend an act entitled "an act to establish a permanent site of justice for the district and county of Adams, passed July 20, 1805.

An act to repeal part of an act entitled "an act establishing and organizing a militia in this territory, and for other purposes," passed July 20, 1805

An act to repeal part of an act entitled "an act prescribing the duties of constables," passed the 1st day of Fabruary, 1805—passed July 20, 1805.

An act supplementary to an act entitled "an act for the appointment of an auditor of public accounts, ascertaining his duties in office, and for other purposes," passed July 20, 1805.

An act amendatory of an act entitled "an act establishing certain courts therein named, and regulating judicial proceedings in this territory," passed July 24, 1805.

An act to prevent the expiration of an act entitled "an act to provide for the raising of a revenue," passed July 24, 1805.

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LIST OF ACTS EXPIRED OR REPEALED.

An act concerning the county court of Jefferson county, and for other purposes, passed July 24, 1805.

An act to provide for the erection of a jail, pillory and stocks for the county of Wilkinson, passed July 24, 1805.

An act concerning public officers, passed July 25, 1805.

An act to provide for the public printing necessary to be done in this territory, passed July 25, 1805.

An act prescribing the oaths of office for justices of the peace and clerks of the several courts within this territory, and for other purposes, passed Dec. 28, 1805.

An act authorising the county court of Jefferson county to lay a tax, and for certain purposes therein mentioned, passed December 28, 1805.

An act to extend the time for auditing debts against the territory and counties, passed December 29, 1805.

An act to suspend the operation of an act entitled "an act establishing the place where the officers therein named shall keep their respective offices," passed December 29, 1805.

An act providing for the auditing of Pickering and Adams county certificates, passed December 29, 1805.

An act to continue in force an act entitled "an act to provide for the raising a revenue, and for other purposes," passed December 29, 1805.

An act to provide for the public printing in this territory, passed Dec. 29, 1805.

An act regulating elections—*Toul. Dig.*

An act directing that the next session of the general assembly shall be held at the town of Washington, passed February 1, 1802.

An act allowing compensation to the several public officers therein montioned, and for other purposes, passed March 2, 1805.

An act to provide for the public printing in this territory—*Toul. Dig.*

An act allowing compensation to Harry Toulmin, and to provide for the public printing to be done in the year 1807, passed February 10, 1807.

An act to raise supplies, and make appropriations for the year 1807, passed February 10, 1807.

An act to extend the time of the payment of taxes for the year 1805, and for other purposes, passed February 4, 1807.

An act to organize the militia—*Toul. Dig.*

An act to erect the town of Natchez into a city, and to incorporate the same, passed March 10, 1803.

An act supplemental to an act entitled "an act to erect the town of Natchez into a city, and to incorporate the same, passed March 8, 1805.

An act for the easy and speedy recovery of small debts, passed February 1, 1805.

An act regulating the conduct of hawkers and pedlars, passed February 4, 1807.

An act concerning aliens, passed March 18, 1799.

An act authorising certain commissioners therein named to view and mark out the nearest and best road from the city of Natchez to Fort Stoddart in the county of Washington, and to empower the said commissioners to employ a fit person to open the road so laid out, passed February 4, 1807.

An act to amend an act entitled "an act to raise supplies and make appropriations for the year 1807, passed February 10, 1807—passed December 24, 1807.

An act to enable assignees of bonds, notes or bills, to bring actions for the recovery of the same in their own names, and for other purposes, passed March 1, 1898.

An act establishing two intermediate courts for county purposes, and to extend the power of the chief justice of the orphans' court, passed March 1, 1808.

An act supplementary to the act entitled "an act directing the appointment of tax collectors in this territory, declaring their duties in office and for other purposes, passed March 1, 1808.

An act apportioning the representatives from the several counties within this territory, and for other purposes, passed March 1, 1808.

An act to raise supplies and make appropriations for the year 1808, passed March 1, 1808.

LIST OF ACTS EXPIRED OR REPEALED.

An act directing the taking the census of the Mississippi territory, passed March 1, 1808.

An act entitled an act to authorise the county treasurers to ascertain the sums due from the different counties in this territory, and for other purposes, passed March 1, 1808.

An act to amend " an act regulating the mode of summoning juries, and for other purposes, passed February, 1809.

An act authorising the assessment and collection of a tax on the inhabitants of the county of Amite for defraying the expense of erecting a court-house, jail and stocks in said county, and for other purposes, passed March 3, 1809.

An act giving further time for the collection of taxes, and for other purposes, passed March 3, 1809.

An act altering the place of holding the several courts of Amite county, passed December 5, 1809.

An act directing the taking of the census of the Mississippi territory, passed December 9, 1809.

An act providing for the sale of the public ware-house erected for the inspection of cotton in the county of Washington, passed December 18, 1809.

An act to raise a revenue, passed December 18, 1809.

An act to establish the rates and tolls of public ferries on the Homochitto river, passed December 20, 1809.

An act toprovide for the collection of a special tax in the county of Amite, for the purpose of building a court-house, jail and pillory, passed December 20, 1809.

An act for the building and keeping in repair three bridges over St. Catharine's creek in the county of Adams, passed December 20, 1809.

An act authorising the collection of a special tax in the counties of Washington, Baldwin and Wayne, passed December 21, 1809.

An act to amend an act entitled " an act for the appointment of justices of the peace, and the establishment of county courts, passed December 21, 1809.

An act to repeal an act entitled " an act establishing two intermediate courts for county purposes, and to extend the powers of the chief justice of the orphans' court," and for other purposes, passed December 22, 1809.

An act to amend an act entitled " an act concerning elections," passed December 22, 1809.

An act concerning the militia of the Mississippi territory, passed December 23, 1809.

An act providing for the payment of certain claims therein mentioned passed December 23, 1809.

An act to prevent the sacrifice of property, passed December 23, 1809.

An act to amend an act entitled " an act establishing the fees of the several officers therein named, and for other purposes, passed December 23, 1809.

An act to make appropriations for the year 1810, and for other purposes, passed December 23, 1809.

Resolution for copying the journals of the two houses of the general assembly, and for printing one hundred copies of the " act concerning the militia of the Mississippi territory," passed December 23, 1809.

An act to amend an act entitled " an act allowing compensation to the several public officers therein mentioned, and for other purposes, passed November 17. 1810.

Resolution concerning the auditor of public accounts, and territorial taxes, passed November 27, 1810.

An act making certain appropriations for county purposes, passed Dec. 3, 1810.

An act to amend an act concerning the militia of the Mississippi territory, passed December 3, 1810.

An act to apportion the representatives among the several counties of this territory, passed December 3, 1810.

An act to amend an act entitled an " act to provide for the collection of a special tax in the county of Amite, for the purpose of building a court-house, jail and pillory, passed December 3, 1810.

LIST OF ACTS EXPIRED OR REPEALED.

An act establishing the town of Washington and for other purposes, passed December 4, 1810.

An act to amend an act entitled " an act altering the places of holding the several courts of Amite county, passed December 4, 1810,

Resolution for publishing the laws, &c. passed December 4, 1810.

An act authorising the collection of a special tax in the county of Baldwin, passed November 27, 1811.

An act to amend an act entitled " an act to amend an act for the appointment of an auditor of public accounts, ascertaining his duties in office, and for other purposes," passed December 7, 1811.

An act to amend an act entitled " an act for holding separate elections in the county of Washington," passed December 1811.

An act to provide a special tax in the county of Claiborne for repairing the jail of said county, and for other purposes, passed December 9, 1811.

An act to amend an act entitled " an act concerning the militia of the Mississippi territory," passed December 13, 1811.

An act for the relief of James M'Intosh and others, and of Abner Green and others, passed December 16, 1811.

An act to amend an act entitled " an act to raise a revenue," passed December 16, 1811.

An act for the relief of debtors, passed December 18, 1811.

An act providing for a special tax in the county of Claiborne, passed December 4, 1812.

An act for the relief of tax collectors, passed December 7, 1812.

An act to amend an act entitled " an act to amend an act to raise a revenue" passed December 23, 1812.

An act regulating the made of collecting money by execution, passed December 23, 1812.

An act to authorise the county court of Amite county to assess a county tax, and for other purposes, passed December 18, 1812.

An act providing payment for the expense incurred by the governor in procuring a loan of arms for the use of the militia, passed December 21, 1812.

An act to amend the several acts concerning the auditor of public accounts and tax collectors, passed December 22, 1812.

An act to amend the several acts now in force for the recovery of small debts, passed December 21, 1812.

An act for the relief of John Boles, passed December 23, 1812.

An act for the relief of certain persons therein named, passed January 6, 1814.

An act authorising the territorial treasurer to pay over certain money to the county treasurers of the several counties of this territory, passed Jan. 21, 1814.

An act to appoint commisssioners to examine and report on the state or situation of certain offices, passed January 22, 1814.

An act concerning executions, passed January 22, 1814.

An act to extend the jurisdiction of justices of the peace, passed Jan. 22, 1814.

An act for the relief of securities in certain cases, passed Dec. 1, 1814.

An act for the relief of the tax collectors of Washington and Baldwin counties, passed December 24, 1814.

An act to provide for printing the laws and journals of the present session of the general assembly, passed December 24, 1814.

An act concerning forthcoming and replevy bonds, passed Dec. 27, 1814.

An act for the relief of William Jordan, passed December 27, 1814.

An act making appropriations to certain persons therein named, passed December 27, 1814.

An act for the relief of persons employed in the service of the United States from the militia of this territory, passed December 24, 1814.

An act concerning tax collectors, passed December 7, 1814.